

A N
HISTORICALL VINDICATION
OF THE
Church of England
In point of
S C H I S M.

As it stands separated from the Roman,
and was reformed I. Elizabeth.

Deut. xxxij. 7.

*Remember the days of old, consider the years of many generations.
Ask thy Father, and he will shew thee; thy elders, and they will
tell thee.*

Jeremiah vii. 16.

*Ask for the old paths, where is the good way, and walk therein, and
ye shall find rest for your souls.*



L O N D O N,
Printed by R. DANIEL, for P. C. 1657.

2
A N
HISTORICAL VINDICATION

Church of England

In point of

S. C. H. I. S. M.

As the same is now being
and is now being

the same is now being
the same is now being

the same is now being
the same is now being



1802
Printed by R. D. Smith, at the C. 1802



To the
R E A D E R.

Know how easily men are drawn to believe, their own observations and expressions may prove as welcome to others, as they are pleasing to themselves. And though few books live longer then the Authors who send them to the presse, and fewer avoid an opinion they might have been as well spared as come abroad; yet neither the hazard their makers run, nor the little gain they reap, can hinder those have a Genius that way, from suffering others to be as well Masters and censurers of their thoughts as themselves.

This being then the venture every

A 3 writer

To the Reader.

writer exposes himself unto, the Reader may not a little marvell how I have been brought to hazard my self on the same Seas I have seen so many Shipwrackt in. I shall desire him to adde this to what is already in the first chapter, as my Apology.

Reading some times in *Baronius*,^a that all things were well done in the Catholick Church had venerable antiquity for their warrant, and that the Roman Church did not prescribe any thing as^b an holy tenet, but such onely as delivered by the Apostles, preserved by the Fathers, were by our ancestors transmitted from them to us ; I cannot deny to have thought (for certainly Truth is more ancient then Error) this being made good, and that she did commend them to us, in no other degree of necessity then those former ages had done, but she had much more reason on her side then I had formerly conceived her to have :
but

^a Veneranda
Antiquitas,
cujus præ-
scriptio cuncta
bene gerit in
Ecclesia Ca-
tholica con-
sueverunt.
Baron. Annal.
tom. 3. Anno
692, n. 5.
^b Non pro ar-
bitrio disse-
rentium, ver-
bisque pu-
gantium bo-
minum, sacra
dogmata
Romana Eccle-
sia definiat;
sed quæ ab A-
postolis tradi-
ta, à majori-
bus deducta, à
patribus ser-
uata accepis-
set, hæc ipsa,
utpote sacro-
sancta, uni-
uerse Ecclesie
seu vniuersæ, atq;
inviolabili
lege custo-
dienda, eadem
Ecclesia Ro-
mana præ-
scriberet; Ba-
ron. tom. 7.
Anno 535.
n. 90.

To the Reader.

but in examining the assertions, it seem'd to me not onely otherwise, but that learned Cardinall not to have ever been in this consonant to himself, confessing the Catholick Church not alwayes, & in all things, to follow the interpretations of the most holy Fathers.

*c Sanctissimos
patres in
interpretatio-
ne Scriptura-
rum non
semper & in
omnibus
Catholica
Ecclesia sequi-
tur, tom. 3.
Anno 34.
n. 213.*

On the other side, it seem'd to me somewhat hard to affirm the Papacy had inroached on the *English*, and nei-ther instance when, where, nor how.

Hereupon, as I perused our ancient Laws, and Histories, I began to observe all changes in matters Ecclesiasticall reported by them; in which I had sometimes speech with that learned Gentleman I mention in the first chapter, whom I ever found a person of great candor, integrity, and a true Englishman. I noted likewise how the Reformation of Religion was begun with us, how cautiously our ancestors proceeded, not to invade the Rights of any, but

To the Reader.

to conserve their own. Many years after, I know not by what fate, there was put into my hands (as a piece not capable of answer, in relation as well to the fact as reason it carried) without at all my seeking after it, or hearing of it, a treatise of the Schisme of *England*, carrying the name of one *Philip Scot*, but, as told me, composed by a person of greater eminency, dedicated to both the Universities, and printed *permissu Superiorum*; truly, in my judgment, neither illiterately nor immodestly writ: but in reading of it, I found sundry particulars, some perhaps onely intimated, others plainly set down, I could no way assent unto; as that *Clement* the vij. did exercise no other auctority in the Church then *Gregory* the great had done, That the Religion brought hither by *Augustine* varied not from that was before the Reformation, That the *English* made the separation from the Church

To the Reader.

Church of *Rome*, That in doing so we departed from the Church Catholic.

I was not ignorant it might be found in the writings of some Protestants, as if we departed from *Rome*; which I conceive is to be understood in respect of the Tenets we separate from holding Articles of faith, not of the manner how it was made.

Having gone through the book, I began to look over my former notes, and putting them for my own satisfaction in order, found them swell farther then I expected; *Vrceum institui, exit amphora*: and when they were placed together, I shewed them to some very good friends, to whose earnest perswasions (being such as might dispose of me and mine,) I have in the end been forced to yield, making thee partaker of that I never
in-

To the Reader.

intended should have past farther then their eyes.

Yet in obeying them I shall desire to be rightly understood ; That as I do not in this take upon me the disputing the truth of any controversi-
all tenet , in difference between us and the Church of *Rome*, so I meddle not with any thing after *Pius quintus* came to the Papacy; who first by private practises, and then open excommunication of her Majesty, declared himself an enemy , & in open hostility with this state, which therefore might have greater reason to prevent his endeavours, by some more sharp laws against such as were here of his inclination, then had been seen formerly : with which I meddle not.

Thus the Reader hath the truth , both how I came to compose , and how to print this. If he find any thing in it like him, he must thank the im-
por-

To the Reader.

portunity of others; if to misdoubt,
I give him in the margin what hath
lead me to that I affirm; if to dislike,
his losse will not be great either in
time or cost: and perhaps it may in-
cite him to do better in the same ar-
gument, and shew me my errorrs,
which (proceeding from a mind
hath not other intent then the dis-
covery of truth) no man shall be
gladder to see, and readier to ac-
knowledge then

From my House in
East Peckham the
22. May M DC LVII.

Roger Twissden.



A T A B L E
Of the
C H A P T E R S.

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of England in point of Schism: And how
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An:



A N
Historical Vindication
OF THE
Church of England in point of
S C H I S M.

CHAP. I.

I. **I**T is now more than twenty yeares since defending the Church of *England* as it was settled 1 *Eliz.* for the most perfect and conformable to Antiquity of any in *Europe*; a Gentleman, whose conversation for his Learning, I very much affected, told me, He was never satisfied of our agreeing with the Primitive Church in two particulars; the one in denying all manner of Superiority to the Bishop of *Rome*, to live in whose Communion the East and Western Christian did ever highly esteem. The other, in condemning Monastique living, so far, as not onely to reform them, if any thing were amiss, but take down the very houses themselves. To the first of these I said, We did not deny such a Primacy in the Pope as the Antients did acknowledge, but that he by that might exercise those acts he of some years before *Hen.* the 8th had done, and had got by encroaching on the *English* Church and State meerly by their tolerance, which when the King-

B

dom

dom took to redress and restrain him in, he would needs interpret a departing from the Church; yet if any made the departure, it must be the Pope, the Kingdom standing onely on those Rights it had ever used for its own preservation, which putting in practice, it was interdicted the King, excommunicated by him, &c. To which he replied in effect that of *Henry* the eighth in his book against *Luther*, That it was very incredible the Pope could doe those acts he had sometimes exercised here by encroachment; for how could he gain that power and none take notice of it? That this argument could have no force if not made good by History, and those of our own Nation, how he had increased his Authority here. Which, truly, I did not well see how to deny, farther than that we might by one particular conclude of another; As if the Church or State had a right of denying any Clark going without License beyond Seas, it must follow, it might bar them from going, or Appealing to *Rome*: If none might be acknowledged for Pope without the Kings approbation, it could not be denied but the necessity of being in union with the true Pope (at least in time of Schism) did wholly depend on the King. And so of some other.

2. As for the other point of Monasteries, I told him, I would not take upon me to defend all that had been done in demolishing of them; I knew they had nourished men of Piety and good Learning, to whom the present Age was not a little beholding; for, what doe we know of any thing past but by their labours? That divers well affected to the Reformation, and yet persons of integrity, are of opinion their standing might have continued to the advancement of Literature, the increase of Piety, and Relief of the Poor. That the King when he took them down was the greatest looser by it himself. Whose opinions I would not contradict, yet it could not be denied, they were so far streyed from their first institution,

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3

stitution, as they retained little other than the name of what they first were.

3. Upon this I began to cast with my self how I could Historically make good that I had thus asserted, which in general I held most true, yet had not at hand punctually every circumstance, Law, and History that did conduce unto it; in reading therefore I began to note apart what might serve for proof any way concerning it: But that Gentleman with whom I had this speech being not long after taken away, I made no great progresse in it, till some years after, I was constrained to abide in *London* (sequestred, not onely from publique, but even the private businesse of my Estate) I had often no other way of spending my time but the company a book did afford; inso-much as I again began to turn over our ancient Laws and Histories, both printed and written, whereof I had the perusal of divers of good worth, whence I collected many notes, and began farther to observe the question between us and the Church of *Rome* in that point, not to be whether our Ancestors did acknowledge the Pope successor of *St. Peter*, but what that acknowledgment did extend to: Not whether he were Vicar of *Christ*, had a power from him to teach the Word of *God*, administer the Sacraments, direct people in the spiritual wayes of heaven (for so had every Bishop, amongst which he was ever held by them the first, *Pater maximus in ecclesia*, as one to whom Emperours and Christians had not only allowed a primacy, but had left behind them why they did it, *Sedis Apostolica primatum sancti Petri meritis, qui princeps est Episcopalis corona Romanæ dignitas civitatis sacra etiam Synodi firmavit auctoritas*, saies *Valentinian 443*. On which grounds, if he will accept it, I know no reason to deny his being prime) but whether they conceived his commission from *Christ* did extend so far as to give him an absolute authority over the Church and Clergy in *England*, to redress, reform, correct, amend all things in

*Valentinian
Novel 24. in
fin. cod. Theod.*

need

B 2

it,

it, not by advice, but as having power over it, with or against their own liking, and farther to remove, translate, silence, suspend all Bishops, and others of the Spirituality. In short, to exercise all Ecclesiastique authority within this Church above any whatsoever, so as all in Holy Orders (one of the three Estates of the Kingdom) solely and supremely depended on him, and hee on none but *Christ*; and whether our Forefathers did ever admit him with this liberty of disposing in the *English* Church.

4. To wade through which question there was an eye to be cast on all the times since *Christ* was heard of in *England*, and therefore to be considered how Christianity stood upon the conversion of the *Britans*, the *Saxons*, and since the irruption of the *Normans*, under the first of these we have but little, under the second somewhat, yet not much, under the third the Papacy swell'd to that height, some parts have been constrained to cast it off, and *England* without his assent in that point so to reform it self, as to declare ^b *no manner of speaking, doing, communication, or holding against the Bishop of Rome, or his pretended power or authority, made or given by humane Laws, shall be deemed to be Heresy.* By which it seems those Episcopal Functions he did exercise common with other Bishops (as Baptizing, conferring Holy Orders, &c.) it did not deny to be good and valid of his administration.

^b Stat. 25.
Hen. 8. cap.
14.

5. But what those particulars were humane Laws had conferred upon the Papacy, and by what constitutions or Canons those preheminences were given him, was the thing in question, and not so easie to be found, because indeed gained by little and little, I cannot but hold Truth more ancient than Errour, every thing to be firmest upon its own bottom, and all novelties in the Church to be best confuted by shewing how far they cause it to deviate from the first original, I no way doubt but the Religion exercised by the *Britans* before *Augustine* came, to have been

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been very pure and holy: nor that planted after from S. Gregory, though perhaps with more ceremonies and commands, *juris positivi* which this Church embraced rejected or varied from, as occasion served to be other, but in the foundation most sound, most orthodox; that holy man never intending such a superiority over this Church as after was claimed. The Bishops of England in their condemnation of *Wicliffe's* opinions, do not at all touch upon those 'concerned the Popes supremacy; and the 'Councell of *Constance* that did censure his affirming. *Non est de necessitate salutis credere Romanam Ecclesiam esse supremam inter alias Ecclesias*, doth it with great limitations and as but an error: *Error est si per Romanam Ecclesiam intelligat universalem Ecclesiam, aut concilium generale, aut pro quanto negaret primatum summi Pontificis super alias Ecclesias particulares*: I conceive therefore the Basis of the Popes or Church of *Romes* authority in England, to be no other then what being gained by custome, was admitted with such regulations as the kingdome thought might stand with it's own conveniency, and therefore subject to those stipulations, contracts with the Papacy and pragmatiques it at any time hath made or thought good to set up, in opposition of extravagancies arising thence, in the reformation therefore of the Church of England two things seem to be especially searcht into, and a third arising from them fit to be examined.

1. Whether the Kingdome of England did ever conceive any necessity *jure divino* of being under the Pope united to the Church and sea of *Rome*, which draws on the consideration how his authority hath been exercised in England under the *Britons*, *Saxons* and *Normans*, what treasure was caryed annually hence to *Rome*, how it had been gained, and how stopt.

2. Whether the Prince with th'advise of his Cleargy was not ever understood to be endued with authority sufficient, to cause the Church within his Dominions be by

c. *Apud* Knighton. col. 2648.
 & in fasciculo
 zizaniorum
 Mss fol. 64. a
 col. 1. in bib
 lio theca. Ar
 chiepiscopo
 Armachani.
 d. concil. con
 stant. sess. 8.
 Art. 41.

e. *Vide* concor
 data inter Hen.
 2. & Alexan
 drum 3. 1172.
 Edwardum
 3. & Gregor.
 11. 1373.
 Henricum 5.
 & Martinum
 5. 1418.

them reformed, without using any act of power not legally invested in him, which leads me to consider what the Royal authority *in sacris* is. 1. In making lawes that God may be truly honoured. 2 things decently performed in the Church. 3 Profaineſſe puniſhed, questions of doubt by their Cleargy to be ſilenced.

3. The third how our Kings did proceed, eſpecially Queen *Elizabeth*, (under whose reformation we then lived) in this act of ſeparation from the ſea of *Rome*, which carries me to ſhew how the Church of *England* was reformed by *Henry* the 8. *Edward* the 6. and Queen *Elizabeth*. Wherein I look upon the proceedings abroad and at home againſt Hereticks, the obligation to generall Councils, and ſome other particulars incident to thoſe times.

I do not in this at all take upon me the diſputation, much leſſe the Theologicall determination of any controverted *Tenet* (but leave that as the proper ſubject to Divines) this being onely an historicall narration how ſome things came amongſt us, how oppoſed, how removed by our anceſtors, who well underſtanding this Church not obliged by any forraign conſtitutions, but as allowed by it ſelf, & either finding the inconvenience in having them urged from abroad farther then their firſt reception heard warrant. Or that ſome of the Cleargy inforced opinions as articles of faith, were no way to be admitted into that rank, did by the ſame authority they were firſt brought in (leaving the body or eſſence (as I may ſay) of Chriſtian religion untouched,) make ſuch a declaration in thoſe particulars, as conſerved the Royall dignity in it's ancient ſplendour, without at all invading the true legall rights of the ſtate Eccleſiaſticall, yet might keep the kingdome in peace, the people without diſtinction, and the Church in Vnity.

CHAP. II.

Of the Britans.

1. **I** Shall not hear inquire who first planted Christian Religion amongst the Britans, whether ^a Joseph of Arimathea, ^b Simon Zelotes, ^c S. Peter or Elusheius, neither of which wants an author, yet I must confess it hath ever seemed to me by their alleading the ^d Asian formes in celebrating Easter, their differing from the rites of Rome ^e in severall particulars, of which those of most note were, that of Easter, and baptizing after another manner, then the Romans used, their often journeying to Palestine, that they received the first principles of Religion from Asia. And if afterward *Celestinus* the Pope did send (according to ^f Prosper) *Germanus* vice suo to reclaim them from Pelagianisme, certainly the inhabitants did not look on it, as an action of one had authority, though he might have a fatherly care of them as of the same profession with him, as a ^g Synod in France likewise had, to whom in their distress they address themselves, to which *Beda* attributes the help they received by *Germanus* and *Lupus*.

2. After this as the Britans are not read to have yielded any subjection to the Papacy, so neither is Rome noted to have taken notice of them, for *Gregory* the great about 590. being told certain children were of *Britannia insula* did not know whether the Countrey were Christian or Pagan, and when *Augustine* came hither and demanded their obedience to the Church of Rome, the Abbot of *Rancor* returned him answer: That they were obedient to the Church of God, to the Pope of Rome, and to every godly Christian, to love every one in his degree in charity, to help them in word and deed to be the children of God, and other.

^a Baron. to. 1.

^b A. 35. n. 5.

^c Niceph. Ca.

^d list. lib. 2. cap.

^e 40.

^f Metaphra-

^g stes Junii de

^h eo vide Baron.

ⁱ 10. 1. A. 60. n.

^j 4. Bed. l. 1. c.

^k 4.

^l Beda lib. 3.

^m cap. 25. confer.

ⁿ Euseb. hist. lib.

^o 5. cap. 18.

^p c. In multis uo-

^q stra consuetudi-

^r ni, contraria

^s gentis apud

^t Bed. lib. 2.

^u cap. 2. August.

^v Britonibus.

^w f Prosper. in

^x chronico. Ann.

^y 432.

^z Beda lib. 1.

^{aa} cap. 17.

^{ab} Vide cap. 2.

^{ac} n. 2.

^{ad} Joh. Diac.

^{ae} l. 1. cap. 21. vi-

^{af} ta Gregor.

^{ag} Beda lib. 2.

^{ah} cap. 1.

^{ai} h Concil.

^{aj} Spilm. p. 108

ther.

ther obedience then this they did not know due to him, whom he named to be Pope nor to be father of fathers.

3. The Abbots name that gave this reply to *Augustine* seems to have been *Dinoth* and is in effect no other then what *Geffry Monmouth* hath remembred of him, that being *miro modo liberalibus artibus eruditus Augustino petenti ab episcopis Britonum subjectionem diversis monstravit argumentationibus ipsos ei nullam debere subjectionem*, to which I may adde by the testimony of *Bedae* their

not only denying his propositions, *sed neque illum pro Archiepiscopo habiturum respondebant*. And it appears by *Gyraldus Cambrensis*, this distance between the two Churches continued long even till *Henry the first*, induced their submission by force, before which *Episcopi Wallia à Menevensi Antistite sunt consecrati, & ipse similiter ab aliis tanquam suffraganeis est consecratus, nulla penitus alii Ecclesie facta professione vel subiectione*: the generality of which words must be construed to have reference as well to *Rome* as *Canterbury*; for, a little after, he shewes that though *Augustine* called them to councell, as a legat of the Apostolique see, yet returned, they did proclaim they would not acknowledge him an Archbishop, but did contemn both himself and what he had established.

m Baronius
Paranesis ad
Rempub. Ve-
netiam p. 52.
atque hinc tan-
dem finit
sed doleo vehe-
menter quod
absque valeat.
Iohannes
enim Aposto-
lus id vult &
cum eo omnis
simul Ecclesia
quod indignos
salutatione ju-
ste iudicet qui
non communi-
cantes Roma-
ne Ecclesie
omnis penitus
sunt salutis ex-
perts (2. Io-
han.)

4. Neither were the *Scots* in this difference any whit behind the *Britans*, as we may perceive by the letter of *Laurentius Iustus*, and *Mellitus*, to the Bishops and Abbots through *Scotland*; in which they remember the strange perverseness of one *Dagamus* a *Scottish* Bishop, who upon occasion coming to them did not only abstain eating with them, but would not take his meat in the same house they abode, yet they salute them with the honourable titles of *their dearest lords and brethren*. A certain signe of a wide distance between the opinions of *Rome* then, and now, when men are taught not so much as to bid them farewell do not submit unto it, sure our first Bishops

know

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know no such rule, who placed in their Calendar for Saints and holy men, as well *Hilda*, *Aydon*, and *Colman*, the opposers of *Rome*, as *Wilfred*, *Agilbertus*, and others who stood for it.

CHAP. III.

Of the increase of the Papall power in England under the Saxons and Normans, and what oppositions it met with.

1. **A**fter the planting of Christian religion amongst the Saxons, th' Archbishop of Canterbury became a person so eminent, all England was reputed his Diocefe, in the collidge of Bishops London his Dean, whose office it was to summon Councils, Winchester his Chancellour, Salisbury or (as some) Winchester his Precetor, or that begun the service by singing, Worcester or rather Rochester his Chaplain, and the other the carrier of his Crosse: expected no lesse obedience from York, then himself yielded to Rome, voluntate & beneficio, it being th' opinion of the Church of England, it was but equall *ut ab eo loco matueretur vivendi disciplinam, à cujus fonte rapuerunt credendi flammam*. The dependance therefore of the Clergy in England being thus wholly upon th' Archbishop, it will not be amisse to take a little view both of what esteem he was in the Church, and how it came to be taken off, and by degrees transferr'd to a foreign power.

2. Upon the conversion of the Saxons here by the preaching of *Augustine* and his companions, and a quiet peace settled under *Theodore*, to whom all the English

a Edmer. p. 12, 29. p.

137. 1. Gervas. Doro- bern. col.

1661, 74.

b Lyndwood de penit. cap.

Tanquam.

c Gervas. Doro- bern. col.

1566, 10.

d Sic Lynd.

ubi supra, ut

Gerv. Doro- bern. col.

1582, 61.

e Sic Lynd-

wood, at Gerv.

Dorobern.

col. 1582, 61.

col. 1429, 23.

Rof. at 1565,

1. Wigor.

f Malms. fol.

121. a & Di-

cana col. 437, 64.

g Rodulph.

Arch. Epif.

4. cap. 2.

sub.

k Lib. MS. in
aula Trinita-
tis Cantabrig.

l Hall 20.
Hca. 8. f. 179.

m Divisus ab
orbe nostro
Britannus, si
in religione
processerit,
querit locum
jama sibi tantis
et scriptura-
rum relatione
cognitum. E-
pist. Paulæ
et Eustochii
de commigra-
tione Bethle-
hem, inter
opera Hierony-
mi Script. circa
Ann. 336.
n lib. 4. c. 23.
Beda.
o Troubles
at Frank-
ford pag.
xxxvi.
Edit. 1575.
p ibid pag. 11.
q ibid pag.
exlvii.

submitted, & Parochiall Churches by his encouragement began to be erected, and the Bishop of *Rome* greatly revered in this nation, as being the successeur of Saint *Peter* the first bishop of the world, Patriark of the West, that resided in a town¹ held to nourish the best Clerks in Christendome, and the fear of the Empire: insomuch, as the devout *Britan* (who seemes (as I said) to have received his first conversion from *Asia*)^m did go to *Judea* as a place of greatest sanctity, soⁿ amongst the *Saxons Roman* adire magne virtutis estimabatur. But as this was of their part, no other then as to a great Doctour or Prelate, by whose sollicitude they understood the way to heaven, and to a place in which religion and piety did most flourish; so th' instructions thence were not as coming from one had dominion over their faith, the one side not at all giving, nor the other assuming other then that respect is fit to be rendred from a puiſne or lesse skilfull to more ancient and learned Teachers. As of late times when certain divines at *Frankford* 1554. differed about the Common-prayer used in *England*, *Knox* and *Whittingham* appealed to *Calvin* for his opinion; and receiving his 200. Epistle, o it so wrought in the hearts of many, that they were not so stout to maintain all the parts of the Book, as they were then against it. And Doctor *Cox* and some other, who stood for the use of the said Book, wrote unto him, p excusing themselves that they put order in their Church without his counsell asked. Which honour they shew'd him, not as esteeming him q to have any authority of Office over them; but in respect of his learning and merits.

3. As these therefore carried much honour, and yielded great obedience to *Calvin*, and the Church of *Geneva* by them, & then held the purest reformed Church in Christendom: so it cannot be denied but our Ancestors the *Saxons* attributed no lesse to the Pope and Church of *Rome*, who yet never invaded the rights of this,

u ibid. p. alix.

Chap. III. of the Church of England.

II

this, as contrary to the^c council of *Ephesus*, and the Ca.^f Concil. general, *edu.*
 nons of the Church of *England*; but left the Govern-^{Romz 1608.}
 ment of it to the *English* Prelats, yet giving his best ad-^{10. 1. pag. 498.}
 vice and assistance for increasing devotion, and main-^{1. Beda 1.4.}
 tenance of the Laws Ecclesiasticall amongst them, in^{cap. 3.}
 which each side placed the superiority. From whence it
 proceeded that however the Pope was sought to from
 hence, he rarely sent hither any Legat. * In the Coun-^{Concil.}
 cell of *Calcuish* held about 180. years after *Augustine*,^{Spelm. Ann.}
 it is observed, *a tempore Sancti Augustini Pontificis sa-*^{787. p. 293.}
cerdos Romanus nullus in Britanniam missus est, nisi
nos. And * *Eadmerus*, that it was *inauditum in Britan-*^{pag. 58. 41.}
nia, quemlibet hominum super se vices Apostolicas gerere,
nisi solum Archiepiscopum Cantuariæ.

4. But after the Pope instead of being y subject, be-^{Caus. 2. q. 1.}
 gan to be esteemed above th' Ecclesiastick Canons, ^{cap. 7. 15. q. 2.}
 and to pretend a power of altering, and dispensing with^{cap. 2. 3. 4.}
 them, and what past by his advise and counsell onely,
 was said to be by his authority, he did question divers
 particulars had been formerly undoubtedly practic't in
 this Kingdom, he seeing them, and not shewing any dis-
 like at it; as * *The receiving Investitures of Churches from* y *Ingulph.*
*Princes, * The calling Synods, The determining causes Ec-*^{fol. 500. a.}
clesiasticall without Appeals to Rome, The transferring a vide litteras
Bishops, &c. but the removing these from *England* un-^{Paschal. 2.}
 to a forraign judicature, being as well in diminution of^{Hen. 1. apud.}
 the rights of the Crown, as of this Church, past not with-^{Eadmerum,}
 out opposition. ^{pag. 113. pag.}
^{115.}

5. For *Anselm* an *Italian*, the first great promoter of
 the Papal authority with us, pretending he ought not be
 barr'd^b of visiting the Vicar of *St. Peter causa regiminis Ec-* y *Eadmer.*
clesie, was told as well by the Bishops as lay Lords, * *Tha* ^{pag. 38. 39.}
 it was a thing unheard, and altogether against the use of^{Eadmer.}
 the reame, for any of the great men, especially himself
 to presume any such thing without the Kings licence: ^{p. 39. 30.}
 who affirmed, ^{Eadmer.}
nequaquam fidem quam sibi debebat simul ^{pag. 26. 1.}

6. Apostolica sedis obedientiam contra suam voluntatem posse servare. And the Archbishop persisting in his journey thither, had not onely his Bishoprick seized into the Kings hand, but the Pope being shew'd how his carriage was resented here, did not afford him either *Consilium* or *Auxilium*, but suffered him to live an exile

f. Nil iudicii vel subventionis per Romanum presulem nacti. all that Princes time ^f without any considerable support, or adjudging the cause in his favour. Which makes it the more strange that (having found by experience what he had heard before, that it was the King not the Pope could help or hurt him) this visit being so little to his advantage, at his first presenting himself to Henry the first, he should oppose *z* that Prince in doing him homage, and being invested by him, a right continued unto that time from his Auncestors, and by which himself had received *b* the Archbishoprick from his brother, and this on a suggestion that it was prohibited in a councill held at Rome: in which he went so far as to

tell the King, *i quod nec pro redemptione cupis mei consentiam ei de iis que presens audiui in Romano Concilio prohiberi, nisi ab eadem sede interdictorum absolutionis prodent, a qua constitutionis ipsorum vinculum prodiit.*

6. This is the first, if not the onely time that to what was acted at Rome an obedience was required here, as not to be dispensed with but from thence: for it is undoubted, this Kingdome never held it self tyed by any thing past there, till received here; as *k Eadmerus* rightly observes, things done there not ratified here to be of no value. And when *l VVinchelsea* 1296. would have introduced the contrary, it cost him dear, the Clergy forced to reject the command, *m* and the Court to quit her pretences.

7. But the dispute, however the right stood, grew so high, the King told *Anselme* *n* the Pope had not to meddle with his rights, and wrote that free letter we find in *Torvicensis*, vol. 999, 30. which I have likewise seen

in

paraphra
k Eadmer. pag. 92, 40.
vide Council. Spelm. pag. 186, 9.
l Hen. Knighton 1296. col. 2491. *vide* Mar. West. *o* W^m. Thorne: *m* de immunitate Eccles. cap. 3. in Sexto. Et Tit. eodem cap. 1. in Clement. *n* Eadmer. 2. 70, 5.

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in an old hand recorded amongst divers other memorials of the Archbishops of *Canterbury*: though I must needs say it seems to me by *Paschalis* his answer, repeating a good part of it, not sent by those he names, but former messengers. In this controversy the Popes returns were so ambiguous, that he writ so differing from their relations were sent, it was thought fit *Anselme* should himself go to *Rome*: with whom *K. Henry* sent another, who spake plainly, his master *nec pro amissione regni sui passurum se perdere investituras Ecclesiarum*; and (though *Rome* were willing to comply in other particulars) told *Anselme* denying that, he could not assure him of a welcome in *England*, who thereupon retired to *Lyons*: where finding slender comfort from *Rome*, he fought the King by letters, and after by the means of *Henry's* sister made his peace; at which yet he was not permitted (such was his spirit) to enter *England*, denying to communicate with them had received Bishopricks from the King, but by the Popes dispensation. The conclusion was; *Paschalis* taught by experience, neither the Court of *Rome* nor th' Archbishop gained ought by this contest, however he would not at first abate *praedecessoris sui sententia rigorem*, yet now admitted great limitations to what *Urban* had established. So as the King assenting none for the future should be invested *per laicam manum* (which was no more, but what he formerly did himself, he would now cause to be performed by a Bishop) the other agreed no prelates to be barr'd of promotion, *etiamsi homines Regi fecerint*, & hoc donec per omnipotentis Domini gratiam ad hoc omittendum cor regium molliatur, &c. which yet the King soon after, on the Popes permission of them to the Dutch, did threaten *sine dubio se resumpturum suas investituras, quia ille suas tenet in pace*; but for ought I find, it went no farther then their swearing fealty to the King, which seems to have been long continued.

o Apud Eadmer. pag. 59, 48.

p Ibid. pag. 56, 22.

q Ibid. p. 73, 11.

r pag. 75, 27. ibid.

s Ibid. pag. 79, 24.

t Eadmer. pag. 80, 27.

u Ibid. p. 63, 3.

x Eadmer. pag. 91, 21.

y Ibid. p. 87, 35.

z Ibid. p. 100, 1.

a Gervas. Doctob. Anno 1187, col. 1503, 36.

b R. de Glanvilla Abbati de Bello, &c.

c praecepto tibi ex parte Domini Regis,

d per fidem quam ei debes & per sacramentum quod ei fecisti.

e c. Wm. Thorn, Ann. 1220, col. 1873, 56.

f Hugo 1. Abbas S. Augustini gratanter admisit suas juravit fidelitatem D. Regi super crucem ipsius legati.

8. The Papacy finding by this contest the difficulty of carrying any thing here by an high hand, thought of more moderate wayes for bringing the Clergy of this nation wholly to depend on Rome; but that could not be without diminishing the power the Archbishop held over them, and therefore must be wonne by degrees: to advance which nothing could more conduce, then to have a person of wisdom reside here, who might direct this Church according to the Papall interest. But this was thought fit to be given out before practic't, and likely to be doubly opposed, for th' Archbishop well un-

^b Mat. Paris
pag. 440. 17.
Anno 1237.
Lond. 1640.

derstood the admitting a Legat for that end to be *in sua dignitatis prajudicium*. And the King suffered none to be taken for Pope, but whom he approved, nor any to receive so much as a Letter from Rome, without acquainting him with it, and held it an undoubted right of the Crown, *ut neminem aliquando legati officio in Anglia fungi permetteret, si non ipse, aliqua precipua querela exigente, & qua ab Archiepiscopo Cantuariorum ceterisque Episcopis regni terminari non posset, hoc fieri à Papa postulare, &c.*

^c Eadmer.
pag. 125. 53.
p. 625. p. 113.
1.

^d Eadmer.
pag. 58. 41.

9. Things standing thus in the year 1100. th' Archbishop of Vienna coming into England, ^d reported himself to have the Legatine power of all Britain committed unto him; which was with so much admiration of the Nation (as a thing had not been heard of before) that (if he had any) at least he thought not fit to make use of his Commission, but departed *a nemine pro Legato susceptus, nec in aliquo Legati officio functus*.

^e Eadmer.
p. 113. p. 116.

10. Fourteen years after *e Paschalis* the 2. by Letters of the 30. of March and 1. of April, expostulates with the King about severall particulars; of which one is, his admitting neither messenger nor Letter to be received, but by his leave: but see the words; *Sedis Apostolica nuncii vel litera prater jussum regia majestatis nullam in potestate tua suspensionem aut aditum promerentur, nullus inde*

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inde clamor, nullum inde iudicium ad sedem Apostolicam destinantur, &c. and the year following address f *An. f* Eadmer. *selme* (nephew to the late Archbishop, and after Abbot of *St. Edmundsbury*) hither, shewing by Letters he had committed unto his administration *vices Apostolicas in Anglia*. This made known here (though the bearer were not permitted to enter the Kingdom) the Clergy and Nobility gathered in councell at *London* concluded th' Archbishop should go to the King in *Normandy*, make known unto him the antient custome of the Realme, and by his advice to *Rome*, (as being the person was most interested in it) *ut hac nova annihilaret*; from whence he obtained the Letter, or rather declaration to the King and Clergy the same author hath recorded. So by this care the matter was again stopt. pag. 118, 119.

11. The King 1119. sent his Bishops to a Councell held by *Calixtus* the 2. at *Reims*, at their departing gave them these instructions: Not to complain of each other, because himself would right each of them at home; That he payed that rent his predecessors had formerly done, and enjoyed likewise those priviledges had been formerly permitted them; That they should salute the Pope from him, hear his precepts, but bring no superfluities into his Kingdome: but see the words; *Rex Anglorum praelatis regni sui ad Synodum ire permisit; sed omnino ne alicujusmodi querimoniam alterutrum facerent, prohibuit. Dixit, omni plenariam rectitudinem conquerentis faciam in terra mea: redditus ab anterioribus constitutos Romana Ecclesia singulis annis erogo, & privilegia nihilominus ab antiquis temporibus pari modo mihi concessa teneo. Itē, dominum Papam de parte mea salutate, & Apostolica tantum precepta humiliter audite, sed superfluas ad inventiones regno meo inferre nolite, &c.* Certainly this prince did hold, the Pope with the advice of a Councell might labour to introduce superfluous inventions, which the *English* were not tyed to receive, the disputes of his Bishops b Ordericus Vitalis pag. 357, d. pag. 358, a.

i cap. 8.

k Baron. 10.

11. anno

1079. n. 25.

o Lanfran-

ci Epist. 7.

l Eadmer.

p. 125, 51.

m Eadmer.

pag. 137, 46.

pag. 138, 21.

n Eadmer.

pag. 116, 23.

o Ibid. p. 125.

21.

p Answer to

Sr. Ed. Cook,

de jure Regis

Ecclesiast. c. 9.

n. 8. p. 200.

q Eadmer.

p. 6, 23. o

lib. 2. per to-

tum. p. 113;

1. &c. p. 115.

r Hen. 1. 2.

pist. apud Jor-

val. col. 999,

46, 49.

shops be by him ended at home without carrying their complaints beyond Seas, according to th' Assize; of *Clarendon*; the King in nothing obliged to *Rome*, but in the payment of *Peter-pence*, as his father had before & exprest himself.

12. In *November* following the Pope and King had a^l meeting at *Gisors* in *Normandy*, where *Calixtus* confirmed unto him the usages his father had practis'd in *England* and *Normandy*, and in especiall that of sending no Legat hither, but on the Princes desire. Yet notwithstanding the same^m Pope not fully two years after addrest another Legat to these parts: but he by the Kings wilddome was so diverted, *ut qui Legati officio fungi in tota Britannia venerat, immunis ab omni officio tali via qua venerat extra Angliam à Rege missus est*, &c.

13. But hereby the way the reader may take notice, these words, * *Collata*, * *Impetrata*, *Concessa*, *Permissa*, used by our best authors in speaking of the Rights of the Crown in points of this nature, do not import as if it had onely a delegatory power from the Pope by some grant of his, as is fancied by those^p would have it so; for we read of no such concessions from him, unlesse that of *Nicholas* the 2. of which in the next: But that they were continually exercised, the Pope seeing, & either approving, or at least making no such shew of his disliking them, as barr'd their practice, which by comparing the said authors is plain. *Eadmerus*, p. 125, 53, 54. speaks as if these customes were *concessa*, *fungi permissa* from *Rome*; which pag. 118, 33, 40. he calls *antiqua Anglia consuetudo, libertas Regni*, &c. So pag. 116, 22. he terms them *privilegia Patri & Fratri suo, sibi que à Romana Ecclesia jam olim collata*, &c. about which yet it is manifest, even^q by him, the Court of *Rome* was ever in contest with our Kings about them, who maintained th^r as their Royalties against it, and challenged by *Henry* the 1. by no other title then *dignitates, usus, & consuetudines*,

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nes, quas Pater ejus in regno habuit, &c. which the Pope scalls honores quos antecessorum nostrorum tempore Pater tuus habuerat, and affirms to be grata in super-
ficie, --- interius requisita & Legati vocibus exposita, gravia & vehementissima parvarunt: so far have Popes been from conferring the least unto them. see cap. 3. n. 19.

14. It is true, things done by Princes as of their own Right, Popes finding not means to stop, would in former ages as later, by priviledge continue unto them. *Nicholaus Papa hoc Domino meo privilegium, quod ex paterno jure susceperat, præbuit*, said th' Emperours Advocate. And the same Pope finding our Kings to expresse one part of their Office to be regere populum Domini, & Ecclesiam ejus, wrote to Edward the Confessor, *Vobis & posteris vestris regibus Angliæ committimus advocacionem ejusdem loci, & omnium totius Angliæ Ecclesiarum, & vice nostra cum Concilio Episcoporum & Abbatum constituatis ubique quajusta sunt*. As a few years since, *the Republick of Venice not assenting to send their Patriarch to an examination at Rome, according to a Decree of Clement the 8th, *Paulus Quintus* declared that *imposterum Venetiarum Antistites Clementis decreto eximerentur*: so that now that State doth by an exemption what they did before as Sovereign Princes. Besides, Kings did many times as graunts ask those things of the Pope, they well understood themselves to have power of doing without him. *Henry the 5th. demanded of Martin the 5. five particulars: to which his Ambassadors finding him not so ready to assent, told him *se in mandatis habere, ut coram eo profiteantur, Regem in iis singulis jure suo usurum, utpote quæ non necessitatis, sed honoris causa petat, & ut publicam de eare coram universo Cardinalium cætu protestationem interponant*. And to the same purpose there are sundry examples yet remaining on record, where y the King on the petition of the Commons for redresse of some things (of Ecclesiastick

D

cogni-

f Eadmer. p. 59. 50.

.. vide cap. 5. n. 4.

Baron. 11. Ann. 1059. n. 23.

u Maurocca. Hist. Ven. Ann. 1601. p. 629. c. Ann. 1609. p. 687. b. Card. Ossat. Epist. Roma 17. Sept. 1601.

x Narratur hac p. 56. 57. in vita Henrici Chicheley ab Arthuro Duck edit. 1617.

y Rot. Parl. 17. Ed. 3. n. 59. in fine. 25. Ed. 3. c8. parif. n. 13. y H. 4. n. 114. 3. H. 6. n. 38.

See cap. 4.
n. 20.

z Malm. de
Iunif. l. 1. in
Anselm.

fol. 127. 15.
Gervas. Do-
robern. col.
1327, 58.

a Eadmer.
p. 58, 44.
b Ibid. p. 115,

17.
c Diceto fol.
437, 64.

d Eadmer.
pag. 27, 34.
princi pi ve-
stro Anselmo.

e Ibid. p. 107,
33. pag. 113,
47.

f Gervas. Do-
robern.
col. 1663, 55.

g Eadmer.
p. 30, 9.

h Eadmer.
pag. 113, 47.

continuatio
Florent.
Wigorn.

Ann. 1136.
pag. 513.

i Gervas. Do-
robern. col.

1663, 55.

k Florent.
Wigorn.

Ann. 1070.

l post. n. 18,
20, 60.

m supra n. 11.

n vid. Mar.
Paris Ann.

1246. p. 699,
10. vide post

n. 38. in textu
o in margine.

p Malm. fol. 152, b. 12. see n. 8.

cognizance) amisse, first chuses to write to the Pope; but on his delay, or failing to give satisfaction, doth either himself by statute redresse th' inconvenience, or command the Archbishop to see it done.

15. But here before I proceed any farther, because it cannot be denied, in former times there was often intercourse between the Church of England and Rome, and such as were sent from thence hither are by some styled *Nuntii*, by others *Legati*; I think it not amisse to consider what the cause was one side so much opposed the sending a Legat, and the other so laboured to gain it.

16. After the crection of *Canterbury* into an Archbishoprick, the Bishops of that See were held *quasi aliterius orbis Papa*, as *Urban* the 2. & styled them, did onely exercise *a vices Apostolicas in Anglia*, that is used the same power within this Island the Pope did in other parts; the one *b* claiming, because *Europe* had been converted by disciples sent from *Rome*; the other, that he had sent *c* preachers through *England*. And is therefore called frequently in our Writers *d princeps Episcoporum Anglia*, *e Pontifex summus*, *f Patriarcha*, & *Primas*, and his seat *h Cathedra Patriarchatus Anglorum*; and this not in civility onely, but they were as well *i sic habiti* as *nominati*. It is true, the correspondency between it and the *Roman* was so great, they were rather held one then two Churches: yet if any question did arise, the determination was in a councill or convocation here; as *k* the deposing *Stygand*, *l* the settling the precedency between *Canterbury* and *York*, *m* the instructions I mentioned of *Hen. 1.* to his Bishops, *n* the right of the Kingdome that none should be drawn out of it *autoritate Apostolica*, do enough assure us, if reconrse were had to *Rome*, it was onely *o ut majori Concilio decidatur quod terminari non potuit*, as to the more learned divines, to the elder Church, of greatest note in *Europe*, by whom these were conver-

ted,

ted, and therefore more revered by this, as that was most solicitous of their well-doing, and most respected for their wisdom. All which is manifest by that humble Letter: *Kenulphus* & others of *Mercia* wrote about 797. to *Leo* the 3. wherein it plainly appears, he seeks to that See for direction, because the conversion of the Nation first came from thence, and there resided in it men of sound learning, whom he doth therefore desire as *quibus à Deo merito sapientia clavis collata est, ut super hac causa* (which was the placing an Archiepiscopall chair at *Litchfield*,) *cum sapientibus vestris quaratis, & quicquid vobis videatur nobis postea rescribere dignemini*. By which it is clear his inquisition was as unto persons of profound literature, (had the key of knowledge conferred on them) not as to those had authority over this Church.

Ibid. de Regibus lib. 1. fol. 16.

17. As for acts of Ecclesiastick authority, what proceeded not from the King, did from th' Archbishop, who was not at all commanded by any, *Nullius unquam legati ditioni addictus*, but preceded them all. None did were a Miter within his Province, or had the Crozier carried, nor layd any excommunication; and when he did, the Clergy of the place did teach, both from the King and Archbishop, not to value it, on this ground, that *in Diocesi Archiepiscopi Apostolicam non tenere sententiam*.

Gervas. Dorobern. col. 1463, 55. q. Ibid. col. 1485, 63. Non est ante hac tempora Archiepiscopo Cantuariensi talis illata injuria, ut in Provincia ejusdem Archiepiscopi, immo & in Ecclesia, ut de cruce fiteam, Legatus aliquis miratus incederet. Gervas. Dorobern. Ann. 1186. col.

18. As for Councils, it is certain none from *Rome* did, till 1125. call any here: if they did come to any, as to *Calcutish*, the King upon the Advise of th' Archbishop *statuit diem concilii*. So when *William* the first held one at *Winchester* 1070. for deposing *Stygand*, though there came to it three sent from *Alexander* the second, yet it was held *jubente & presente Rege*, who was president of it. The difference touching precedency between the

1485, 63. *fGer. Dorobern. Ann. 1187. col. 1531, 38. t Concil. Spelman. pag. 293. u Florent. Wigorn. Ann. 1070. pag. 434. x Vita Lanfranci cap. 7. p. 7. col. 1. d.*

Sees of *Canterbury* and *York* having been before the same Pope, and by him sent back for a determination at home, it is observable, that in a Councell said therefore to be called *ex precepto Alexandri Papa annuente Rege*, the Popes Legat subscribed the 16th. after all the *English* Bishops: as is truly y recorded in the *Antiquitat. Britannicæ Ecclesiæ* p. 95, 40. agreeing with a very ancient Ms. copy I have seen of the said Councell; as *Diceto* and others do & rank him after the King, *Canterbury*, and *York*. If any shall ask whether I have met no copies in which he was placed otherwise, I must confesse I have seen some books wherein he was above the *English* Bishops, next after the Queen; but they were onely late Transcripts, not of any Antiquity, as in a ^abook of *Crowland* writ since the beginning of *Henry* the 7.

19. The Pope for many years now past, for being a Spirituall Pastor, and Patriarch of the West, hath been treated with more reverence than any Bishop, and for being a potent temporall Prince, with more observance then meerly a Ghostly Father. A^b grave writer notes, *Henry* the first having gone through the troubles were on him with his brother, and likewise *Anselm*, *subjugatis omnibus inimicis securus erat, nec aliquem ut primus formidabat præter Papam, & hoc non propter spiritualem, sed temporalem potestatem*. Which as it is recorded of that Prince, so no question is true of many others.

20. By which we may see, when *Rome* did in former times *Apostolica autoritate præcipere*, it was to Bishops (whom he styled his brothers,) no other then such fraternall commands the elder may and doth ordinarily lay upon the younger brother, of whom he is solicitous; such as *St. Pauls* were ^eto the *Thessalonians*, ^d*Philemon*, &c. No other then of late *Calvins* were ^eto *Knox*, who being chosen by certain of *Frankford* to be Preacher unto them, ^e*their vocation* he obeyed, albeit unwillingly, at the commandment of that notable servant

y Note, you must see these subscriptions in the London edition 1572. for in that of *Hanau* 1605. they are for the most, (I know not on what warrant,) omitted.

z *Diceto* fol. 485, 24. a in *Bibliotheca Cotton* fol. lxxiii.

b *Mat. Paris* *hisl. minor.* Ann. 1107.

c 2 *Thess.* iii.

12.

d *Philem.* 3.

e *Knox Hist. Church of Scotland* p. 93. edit. 1644.

of

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of God John Calvin, &c. And a little after the Lords of Scotland sending for him home, & did accompany their letters to him with others to *Mr. Calvin, craving of him, that by his auctority he would command the said John once again to visit them*, &c. And truly whosoever will without partiality seriously consider the whole contexture of our Lawes and Histories, weighing one circumstance with another, must conclude the Popes commanding to have been *volentibus*, not *nolentibus*, (as *St. Hierom* says those of a Bishop ought to be) for if disliked, his precepts were^b questioned, ⁱ opposed, ^k those he sent not permitted to meddle with that they came for, their prohibitions that others should not, neglected: The *English* having ever esteemed the Church of *Canterbury* in Spiritualls, that is *quæ sunt ordinis*, without any intervening superior ^l *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*; in other things, as points of Government, the ordering that of right and custome ever to have belonged to the King assisted^{*} with his councill of Bishops, and others of the Clergy, who was therefore called *Vicarius Christi*, &c. as I shall shew hereafter more at large.^m The Church of *England* holding that of *St. Augustine* an undoubted truth, *In hoc Reges, sicut eis divinitus præcipitur, Deo serviunt in quantum Reges sunt, si in suo regno bona jubeant, mala prohibeant, non solum quæ pertinent ad humanam societatem, verum etiam quæ ad divinam religionem*: and accordingly our Kings, so far as any Laws or Records of their actions are extant, from *Ethelbert* by the *Saxons* to the Conquest, and from the *Normans* to these later times, have upon occasion exercised a power, shewing such titles were not in vain conferred on them. Neither did any decision, though never so punctually

f *Ibid.* p. 110

g *Epitaph. Nepotiani ad Heliodorum* to. 1.

h *Eadmer.*

pag 92, 40.

p. 125, 29.

i *Gerwas. Do-*

robern. col.

1313, 66.

1316, 8. &

1318, 39.

1359, 41, 59.

Wms

Thorn 1802,

26, 1848, 18.

and these

may serve

in lieu of

many others

may be

alleged.

k *Ger. Doro-*

bern. col.

1558, 54.

l *Ibid.* col.

1663, 24, col.

1615, 62.

* *Si Episcopi*

tramitem ju-

sticie in aliquo

transgredien-

tur, non esse

Regis, (viz.

alone,) sed

canonum judicium, sine publico & Ecclesiastico Concilio illos nulla possessione privari debuisse, Regem id non reſtitutionis zelo, sed commodi sui compendio fecisse. *Malms. fol. 103. a. 13.* reports this saying of a Legat. see n. 24. in *Contra Creicon. Grammat. l. 3. cap. 51. 10. 7.*

had in *Rome*, unlesse the parties agreed, stint the strife, till the King concurred with it; as the frequent determinations on the behalf of *Canterbury* in point of superiority above *York*, found in * *Malsbury* and others, may teach us, which yet never received a finall end, till *Edward* the 3. under the great seal set a ° period to that long controversy.

21. But after the Pope began to think (or rather to say) himself had onely *P plenitudo Ecclesiastica potestatis*, q that no Councell could give Laws to him, but all receive strength from him, and the Canonists flattery extended to declare him^r *supra jura*, & *in eo sufficit proratione voluntas*; his missives ran in an higher tone then formerly, and his commands, which were at first according to th' example of *S^t. Paul* joyned with exhortations, entreaties, and the like, to carry *Apostolica auctoritate comprimere*; and to th' Archbishop demurring in th' execution of them, * *innum candelabrum concutimus*, & *tantam presumptionem cum gravibus usuris exigemus*; and, * *si mandatum nostrum neglexeris vel distuleris adimplere, quia justum est ut ei obedientia subtrahatur qui sedi Apostolica neglexerit obedire*, venerabilibus fratribus suffraganeis suis per scripta nostra mandavimus, ut tibi reverentiam non impendant. Quod si &c. tibi feceris exhiberi, scias te tunc ab Episcopali dignitate suspensum, &c. phrases and manners of writing denoting much more of aucthority then was used by Popes in elder times. By which is manifest, the point in difference between the Archbishop and the Pope to have been not the sending a Legat hither, but of one with a power above him, to command the *English* Clergy, that is to remove their dependency from him to *Rome* as a superior over him.

22. To his gaining which these usages of th' Archbishops were great stops, drawing so near an equality, and so pregnant testimonies of his no-divine right to meddle

* Malm. de
 Font. lib. 1.
 fol. 118, a. 10
 fol. 120, b.
 o Antiquit.
 Britan. Eccle-
 sie, in Simone
 islep. p. 269,
 15.
 p De auctori-
 tate & usu
 Pallii cap. 4.
 q De Electio-
 ne & electi
 potestate c. 4.
 r Lyndwood
 de temp. ordi-
 nand. cap. 2.
 ad verbum ex-
 presse,
 f Philip. iii. 3.
 t Wm. Thorn.
 col. 1301, 53.
 u Ibid. 1814,
 34.
 x Gervas.
 Dorobern.
 Ann. 1193.
 col. 1602, 64.

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meddle here, not easy to be removed, unlesse some from the Pope were admitted into the Kingdome, that might at least give an essay to the guiding the *English* Church after the papall interest: but that, how earnestly soever prest, came to no effect till 1125. *Iohannes Cremonensis*, a person well understanding (as appears by his carriage six years before at *Reims*) the designs of *Rome*, & came to the King in *Normandy*; where after some stay, his journey hither was permitted; with what qualifications I find not; but coming with Letters to *Canterbury* at Easter, performed th' Office of the day in a more eminent chair as an Archbishop, for so I English *loco summi Pontificis*, according to the phrase of those times, and, though a Cardinal priest, used insigniis Pontificalibus the habit of a Bishop: which being an unusuall novelty, past not without scandall. But in a councell which he held and presided in at *London*, the Kingdom took more offence: I shall deliver it in my authors own words; *⁹ Totam Angliam in non modicam commovit indignationem: Videres enim rem eatenus regno Anglorum inauditam, Clericum scilicet Presbiteri tantum gradu persunctum, Archiepiscopis, Episcopis, Abbatibus, totiusque regni nobilibus qui confluxerant, in sublimi folio praesidere; illos autem deorsum sedentes, ad nutum ejus vultu & auribus animum suspensum habentes.* From whence we may conclude it a thing before not heard of, for any Legat, though a Cardinal, to precede Bishops, (the first Councell in which they preceded Archbishops I take to have been the Councell of *Vienna* 1312. where th' Archbishop of *York* is noted to have been placed *⁹ primus & praeipuus post Cardinales, & post Trewiresensem Archiepiscopum;*) or be seated in a more eminent place over them; (I have shew'd they did not subscribe in *English* Councells above them;) that these mutations were scandalous to the nation.

23. As this is the first Ecclesiastick Synod called and managed

⁹ Ordericus Vitalis pag. 862.

⁹ Simeon Dunelmensis Ann. 1125, col. 251, 61.

⁹ Eadmer. pag. 107, 33. pag. 113, 4. Ger. Doro-bern. col. 1663, 55.

⁹ Insuperata novitas. Doro-bern. Ibid. Ger. Doro-bern. Aſſa Pont. ibid. col. 1663, 46.

⁹ Thomas] Stubbs, Aſſ. Pont. Ebor. col. 1730, 50. e Supra u. 18.

f Apud Sim.
Dunelm. col.
252. 22.
g Iohn xxi. 15,
16, 17.
h Apud Ead-
mer. pag. 115.
9. Ann. 1115.
i Ecclesiastiarum
prapostuli.
k Eadmer.
pag. 27, 37.
l Ordericus
Vitalis pag.
862, ff. omnes.
m Petr. Ble-
sens. Epist.
148.
n De confide-
ratione ad Eu-
gen. lib. 2.
cap. 8.
o Ext. Com. de
Majoritat. &
obedient. c. 1.

managed by any Legat from Rome; so before his credentia^f Letters from *Honorius* the 2. as well to the Lay as Clergy, I have not met with the Text *g Pasce oves meas* used to prove him the generall Pastor of all the World: it is true, *Paschalis* the 2. ^h ten years before uses it to proye his auctority over ⁱ Bishops; but neither doth ^k *Anselme* 1095. produce it, neither doth this Cardinall at ^l *Reims* 1119. mention it, though either of them did alleadge as many places of Scripture as were then common to prove th' extent of his power; and *Petrus Ble-sensis*, that lived a little after, ^m interprets it as spoken to all Bishops, and to import no other then *Evangelizare*: a certain signe, if that exposition were hatch't before, it was not common, which afterward approved by ⁿ *St. Bernard*, and inserted into ^o the Canon Law by *Boniface* the 8. about the year 1300. is now stood upon as the Basis of papall greatnesse. But to return to that we were on.

p Malms. de
Pont. lib. 1.
fol. 131. b.
39.
q Gervas.
Dorobern.
col. 1663, 64.
r Eadmer.
pag. 14, 13.
pag. 30, 9. pag.
93, 3.
s Ibid. 58, 43.

24. The Archbishop sensible of these indignities, proceeds not as his predecessor, by joynt Councell of the Bishops, Abbots and Nobility, but hath himself recourse to Rome (who already knew *p se convertere ad oratorum versutias, dummodo consulat suis profectibus*) where the Pope, (which was *Honorius* the 2.) committed unto him *q vices suas in Angliã & Scotiã, & Apostolica sedis Legatum constituit*: So that he who before was *r Primas Angliæ, Scotiæ & Hiberniæ, necne adjacenticum insularum*, that none else *s gerebat vices Apostolicas in Britannia*, and this of his own right, without any delegatory power, might now doing the same be said to do it by a power derived from Rome. An invention highly advantagious to the Papacy: for before the King and Archbishop, or rather the Archbishop by the Kings will and appointment, had ever taken cognizance of all matters of Episcopacy, as the erection of Bishops, disposing and translating Bishops, &c. So *Paschalis* the

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the 2. expositulates with *Hier.* the 1. that *præsen. auctoritatem nostram Episcoporum translationes præsumis.* &c. and the * deposing of them to have been in a Synod^u Historians of all times before assure us, even unto *Lanfrank*, who * attempted it upon small grounds against *Wolstan*. As for dividing Bishopricks, and erecting new where none were, *3 Theodore* did five in *Mercia cum consensu Regum & principum*, (without ever sending to *Rome*) as he did others & elsewhere. And *Henry* the 1. long after placed Episcopall Chaires at *Ely* and *Carlisle*, without acquainting the Popes with it. It is true, *Anselme* an *Italian*, either not knowing the rights of the Kingdome, or rather out of a desire to interest the Pope in every thing, writes to him of *Ely*, that *de vestra pendet auctoritate prudentia* to adde strength to Ecclesiastick ordinances of this nature; yet it is clear by his very Letter, the King, Bishops and Nobility had already concluded on it, with whom he had concurr'd, asking *Paschalis* assent after the deed done: which shews rather he did it in civility, then of necessity, *ne à posteris ulla præsumptione violetur*, that no cavilling might arise in the future to the disturbance of an action well settled, that past by so great advice, as not onely the *English* Church, but the first Bishop of the world and Patriarch of the West joyned in seeing the needfulnesse of it. And it is here not unworthy the remembering, that *Q. Mary.* how much so ever addicted to *Rome*, yet admitted the ^b Bishops of those Sees her Father had erected during the schism (as they called it) to sit in Parliament, before any confirmation of them by the Pope.

25. Of these and the like, though cases proper for the Papacy alone, yet being without scruple exercised

¹ Ph. & Max. Journall des Seigneurs: yet the Act of reconciling this Kingdome to *Rome*, and confirming those Bishopricks by the Pope, past not till the 30. of November after, however they were reputed lawfull Bishopricks before. c. Caus. 3. quest. 6. cap. 7. & de *translat. Epist.* cap. 2. Bellarm. lib. 4. de Eccles. cap. 8 §. Ratio, &c.

^t Apud Eadmer. p. 115. 48. &c.
^u pag. 129, 52. see n. 20.
^u See Bed. lib. 4. cap. 2, & Gervas. Do. robern. col. 1638, 37.
^x Mar. Paris 1095, pag. 20, 46. Allredus col. 406, 10.
^y Flor. Wigor. pag. 559, 7 Beda lib. 3. cap. 7. lib. 4. cap. 61 & 44. 5. cap. 19.
^a Eadmer. pag. 95, 50.

^b Gloucester and Chester in Parliament 1 Mar. 2. April 1554. Parl. 2. item Parl. the 3. 12 November 1554. 1. and

d. Apud
Malmsh. fol.
152, 2. 34.

* 1127.

e. Baron. 10m.
3. Ann. 676.
n. 10.

f. n. 40.

g. Florent.
Wigorn. An-
nis 1126.
1127. & alij.

h. Apud
Malmshur.
fol. 10r. Io-
hannes Ha-
gulstad. fol.
259, 9.
Richardus
Hagulstad.
fol. 314, 18.
vid. col. 313,
32.
i. Gervas.
Dorobern.
fol. 1344, 6.

in the Church of England; and no controul from Rome, it would not be easy to dispossesse the Archbishop of meddling with, by strong hand, especially on an essay made before in the case of *Wilfred*, it being affirmed, *quod esset contrarationem, homini jam his à tota Anglorum Ecclesia damnato, propter qualibet Apostolica scripta communicare*: the way therefore of making him the Popes Legat was invented, by which those particulars he did before without interruption of his own right, he (whom it was not easy to barre of doing them) might be said to act as his agent: which was about * this time first committed unto him of any Archbishop of *Canterbury*; though e. *Baronius*, not finding how the very same past before, fancies *Theodore* to have donethem, *cui totius Anglia à Romano Pontifice veluti Apostolica sedis Legato cura credita erat*; who certainly if he were his Legat, was very immorigerous in the case of *Wilfred*. But to leave that as a *Chimara* not to be assented to, mentioned by no ancient author, it is true, not long after he conferr'd the title of *Legatus natus* on th' Archbishop, f of which hereafter.

26. To return to th' Archbishop, who came home with this Legatine power 1127.8 crowns the King at *Windsor*, and in *May* following holds a Councell at *Westminster*, *cui præsedit ipse, sicut Apostolica sedis legatus*; which is the first Councell any Archbishop is noted to have held as a Papall Legat; and during his life, which was seven years, *England* did not see any other.

27. After his death the See of *Canterbury* lay two years vacant, so a fit time for the Pope to look this way, especially K. *Stephen* making it part of his title, that he was h confirmed by him in his Kingdome: therefore 1138. *Innocentius* the second sent hither *Albericus*. Bishop of *Hosia*, the second stranger I find exercising the Legatine auctority in *England*; yet he was not at first received for one, but *vix tandem pro reverentia*

Domini

Domini Papa. He indeed went farther than ever any had, for he not onely called the Clergy *Apostolica auctoritate* (as our Historians terme it) to a Synod; (I confesse he avoyds the word in his letters of summons, styling it *colloquium*, perhaps not to enter into dispute with the King, who then took himself to be the onely caller of them, and the allower of what they did) but did farther command the Prior and Convent of *Canterbury*, &c. to chuse such an Archbishop, *cui sacrorum canonum auctoritas in nullo valeat obviare, cui provinciales Episcopi pariter debeant assentire, & cui Dominus Rex nec possit nec debet assensum suum juste denegare:* but farther not at all intromitting himself. And in the Councell he held, amongst other particulars, he ordained, that if any injured an Ecclesiastick person, *Nisi tertio admonitus satisfecerit, anathemate feriatur, neque quisquam ei prater Romanum Pontificem, nisi mortis urgente periculo, modum penitentiae finalis injungat.* This is the first that by Canon, ought done in England was referred to *Rome*, as having a greater power then the English Bishops to absolve: (of the Laws of *Hen.* the 1. I shall speak hereafter.) But whether it were not here much regarded, or th' excesses used by King *Stephen* against certain Bishops, and the prohibiting a Councell held at *Winchester* to send to *Rome*, as against the dignity of the realm, or that he freed of imprisonment desired to make so potent a party, as the Clergy then was, more of his side, I cannot say; but assuredly it was again renewed in a Councell at *London* about some four years after.

28. The same Pope 1139. conferr'd upon *Henry*, *K. Stephens* Brother, and the potent Bishop of *Winchester*, this Legatine power, which was by him published in a Councell at *Winchester*, where his faculties were read & bearing date the 1. March; and being as wells *Anglia Dominus* by reason of the power he held with *Stephen*, as *Apostolica sedis Legatus*, he called

k Gervar.
Doroborn.
col. 1346, 52.
l Eadmer.
p. 6, 29. p. 24.
11.
m Ger. Dor.
ibid. lin. 65.

n Cap. 9. apud
Gervar, Do-
rob. 1348. &
Richard. Ha-
gust. 328.

o. 30.

p Malm. fol.
103. a. 1.
b. 54. 55.

q H. Hunt.
fol. 225. a. 36.
Aug. 1142.
s. Steph.

r Malm. fol.
103. a. 31.
s Ger. Do-
rob. col.
1343. 44.

W^m. Thorne
col. 1853, 32.

* Gervas.
Doroberp.
col. 1665, 24.
indignatus
Theobald.

* Iohan. Fla-
gulstad. col.
275, 42. in-
terdictis Epi-
scopo, Episco-
pale & sacer-
dotale officium.

y Num. 40.

thicher th' Archbishop that had then some contest with the Monks of St. *Augustines*, (whom the Pope generally favour'd against him) referr'd to his decision from *Rome*, so that he caused both parties the 2^d second time to appear there before him 1143. as Legat, and by compromise ended the businesse. Yet this calling of the Archbishop * unto him was not taken well: and the same year 1143. he did by Apostolick command restore *Jeremy*, removed by *Theobald*, (notwithstanding his appeal to *Rome*) to be Prior of *Canterbury*: which restitution the said Prior did not think fit to stand by, but for avoiding trouble took an 100. marks to pay his debts, and placed himself in St. *Augustines*. By these carriages there grew great distasts between these two great Prelats: the one as Archbishop prohibited *Winchester* * all Ecclesiastick functions, however the Popes Legat; and both apply themselves to the Pope; from whence our Historians do fetch the use of Appeals to *Rome*; as indeed there could not well be any cause of them before: for as the one case is the first ever any Archbishop was called out of his Diocese to make answer to any Legat as his Superior; so I believe it will be hard to give an example of ought done by th' Archbishop in his own Bishoprick till now alter'd by a foreign auctority. And here, having mentioned the introducing of Appeals, the reader will give me leave to digresse a little, both to shew what is meant by them, and the manner of prosecution of them; and then y to return, and observe the event of the Archbishops and Legats in the Court of *Rome*.

29. It cannot be denyed, the word *Appeal* to have been used in former times with reference to the Papacy.

Malmsb. f. 3 Cum praesul sedem Apostolicam appellasset, sayes Malmsbury of *Wilsfred*; and a Councell held in *Italy* concern-
ing him, * *Apostolicam sedem de sua causa appellans*:
sup. 20. & in
Ingulpho 265. *sem additionibus ejus, in Bibliotheca Cotton,*

and

and so of some others. Yet nothing is more certain then those in whose time this was did not at all hold the Pope to have any power of righting him, other then by intercession; not as a superior Court, by sentencing in his favour, to undo what had past *Theodore*; (* without whose assent the King could not have deprived him of his seat,) for when the Popes ^b Letters were brought hither for his restitution, *Egfrid*, with th' advise of his Bishops, not onely refused, but clapt *Wulfred* in prison; and after his death the ^c Pope sending others *vita graves & aspectu honorabiles*, *Alfrith* though he received the men with great reverence, yet would by no means admit the restauration they came about, but affirmed it against reason to do it (he having been twice condemned) *propter qualibet Apostolica scripta*. And as this was in a time when Christianity most flourished in this Nation, having in generall ^d *fortissimos Christianos-que Reges*; so of the Kings that did it, of *Egfrid* ^e *Beda* left, that he was *piissimus & Deo dilectissimus*: neither can he find any other thing to blame in *Alfrith* worthily, and the Bishops that did ^f concur in the action were ^g holy men, well seen in divine and secular learning; so that it is not imaginable any thing past them not warranted by the Doctrine and rules of this Church.

30. For the understanding of which, we are to know the word *Appeal* is taken severall wayes; sometimes ^h to accuse, sometimes for referring our selves to some one for his judgment; such was that of *Wulfreds* appealing to *Rome*, as to a great spirituall Doctor and Church whose judgment was very venerable in the World, as of late *John Calvins* and the Church of *Geneva* was to them of *Scotland* and *Frankford*, &c. another way we take it for removing a cause from an inferior to a superior Court or Iudge, that hath power of disannulling whatsoever the former did; and this is that our Historians affirm not to have been in use till af-

^a Stubbs de Archiepisc. Ebor. col. 1691. 10.
^b Malm. fol. 150, a. 43.
^c Ibid. fol. 152. a. 32, 34.

^d Beda. lib. 4. cap. 2.
^e Apud Malm. fol. 10. b. 23, 36.

^f Stubbs de Archiepisc. Ebor. in Wulfredo col. 1691, 10.

^g Bed. lib. 4. cap. 2. cap. 9.

^h Blasius Dilectum de prodicione appellat. Liv. lib. 26. such were those Appeals in Parliament, the 11. and 21. of Ric. the 2. which might be otherwise called accusations.

i Eadmer.
pag. 39, 21,
30.

k Apud Ead-
mer. p. 113, 3.

l Ibid. p. 115.
33.

m pag. 35, 41.

* Henry the
3^d.

n Fabiani E-
pist. 3. & Sixti
3. tom. 1.
Concil. &
apud Gratian.
c. 3. q. 6. cap. 1.
Leg. Hen. 1.
cap. 5. p. 178.
28.
o Leg. Hen. 1.
pag. 179, 9.

ter 1140. It is certain, long after *Wulfred* the Bishops and Nobility did assure *Anselme*, that for any of the great ones, especially him, to have recourse to *Rome* without the Kings leave, to be *inauditum & usibus ejus omnino contrarium*; and therefore required of him an Oath, *quod nunquam amplius sedem Sancti Petri, vel ejus vicarium, pro quavis qua tibi ingeri queat causa appelles*. I know *Anselm*, an *Italian*, where the opinion of the Papall absoluteness had now begun to roor, did maintain this was *Petrum abjurare*, and that *Christum abjurare*, and is the first of our Bishops spake any thing in that sort; with whose sense the Kingdome did not concur in it. For it is manifest, in those dayes and after, Appeals to *Rome* were not common. In the year 1115. k *Paschalis* the 2. ex postulates with *Henry* the 1. that *Nullus inde clamor, nullum judicium ad sedem Apostolicam destinatur*: and again, l *vos oppressis Apostolica sedis appellationem subtrahitis*. And *Anselme* himself speaking of the proceeding of the King in a case by him esteemed onely of Ecclesiastick cognizance, lays down the mannerto be, that it should be onely m *ad singulos Episcopos per suas parochias, aut si ipsi Episcopi in hoc negligentes fuerint, ad Archiepiscopum & primatem*; adding nothing of carrying it to *Rome*, of which I know no other reason, but that it was not then usuall to remove causes from the Primate thither. Yet after this, either the importunity of the Pope prevailed with the * King, or the passage was inserted after his dayes into the Lawes carry his name; (as some other in the same chapter may seem to have been) but certain in them though he give for a rule that of Pope n *Fabian* or *Sixtus* 3. *ibi semper causa agatur ubi crimen admittitur*, yet a Bishop erring in faith, and on admonition appearing incorrigible, o *ad summos Pontifices* (the Archbishops) *vel sedem Apostolicam accusetur*. This is the onely case wherein I find any *English Law* approve a forreign judicature.

31. But

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31. But whether from the countenance of this Law, or the great oppressions used by the Legat King Stephens Brother, or the frequency of them, it is certain, 1151. Appeals were held a & cruell intrusion on the Churches Liberty; so as in the Assize at Clarendoun 1164. collected by the body of the Realm, & the 8. Chapter is solely spent in shewing the right of the Kingdome in that particular: which *Iohannes Sarisburiensis* interprets, *quod non appellaretur pro causâ aliquâ ad sedem Apostolicam, nisi Regis & Officialium suorum venia impetrata.* Upon which the Bishop of London moved Alexander the third, *Beckets* cause might be determined *ſ appellacione remota*: at which the Pope seems to be moved, and told him, *hac est gloria mea quam alteri non dabo.* And though it seems by a Letter of the same Prelat, the King would have restrained his power onely to such as had first made tryall of receiving justice at home, claiming *ex antiqua regni institutione, ob civilem causam nullus clericorum regni sui fines exeat, &c.* and that too, if amiss, would have corrected by th' advise of the English Church: yet while th' Archbishop lived, that would not be hearkened to; but after his death, at the peace which 1172. ensued between him and the Church of Rome, it was onely concluded, the King not to hinder Appeals thither in Ecclesiastick causes, yet so as a party suspected before his going was to give security not to endeavour *malum suum nec regni.* But the Kingdom meeting in Parliament at Northampton 1176: not fully four years after, would not quit their interest; but did again renew th' Assize of Clarendoun, using in this particular somewhat a more close expression: *ſ. Iusticia faciant querere per consuetudinem terra illos qui a regno recesserunt, & nisi redire voluerint in fraterminum nominatum, & stare in curia Domini Regis, utlagentur, &c.* in effect the same as *Gervasius Dorobernensis* well understood, who tells us, *ſ Rex Anglie*

Henricus

p Hunt. fol. 227. b. 7. & alii.

q Gervas. Dorobern. col. 1387. *ſ* Epist. 159. pag. 254.

f Gervas. Dorobern. col. 1396. *ſ* Apud Hoveden, Ann. 1166. fo. 287. b. 44. apud Dicet. Ann. 1161.

ſ. Apud Hoveden. fol. 314. b. 3. u Gervas. Dorobern. Ann. 1176. col. 1433. 19.

Henricus convocatis regni primoribus apud Northamptoniam, renovavit assisam de Clarendonia, eamque precepit observari; pro cuius execrandis institutis beatus martyr Thomas Cantuariensis usque in septennium exulavit, & tandem glorioso martyrio coronatus est.

32. After which the going to Rome remained during this Kings and his Son Richard's time, onely according to their pleasures, the Clergy lying under the penalty of this Law, if they did attempt farther then the Princes liking : of which we have a very pregnant example in the case of Geffrey Archbishop of York, K. Richards Brother, who accused to Cælestinus 3^m that he did not onely x refuse Appeals to Rome, but imprisoned those who made them; upon it the Pope y commits the cause to be heard by the Bishop of Lincoln and others, who thereupon z transfer themselves to York, where hearing the Testimonies of those appeared before them, assigned him a time to make his defence to the Pope. But the Archbishop being then well with his Brother, pretended he could not present himself in Rome * for the Kings prohibition, and the indisposition of the aire. Not long after the King and he fell so at odds, b quod pracepit illum dissaisiri de Archiepiscopatu suo, &c. Cælestinus upon this takes an opportunity to declare a suspension to be notified through all the Churches of his Diocese, injoyning, what the King had before, the Lay as well as the Clergy, c ne ipsi Archiepiscopo vel officialibus ejus in temporalibus respondere prasumant, donec de ipso Archiepiscopo aliud duxerimus statuendum. The offence with his Brother still remaining, the Bishop expecting now no help at home, goes upon this to Rome, makes his peace with the Pope, and returns; but the King d committed the care even of the Spiritualls of his Archbishoprick to others, without permitting him or his Agents to meddle with ought, till about two years after he e reconciled himself to the Crown; after which he gave Innocen-

tius

x, Epist. Cælestinii apud Hoveden.

Ann. 1195.

fol. 426. b. 26.

y Eadem

Epist.

z Idem, f. 427.

a. 26.

lin. 38.

a Hoveden,

Ann. 1195.

fol. 427. a. 48.

b Ibid. f. 428.

a. 42.

c Hoved.

Ann. 1196.

fol. 434. a. 23.

d Ibid. fol.

435. b. 52.

e Ibid. fol.

442. b. 19.

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33

ius 3rd occasion to write, *Non excusare te potes ut debes, quod illud privilegium ignoraris, per quod omnibus in iusde gravatis facultas patet ad sedem Apostolicam appellandi, cum & in ipse aliquando ad nostram auctoritatem appellaris; and a little after, Nec auctoritatem nostram attendis, nec factam tibi gratiam recognoscis, nec appellationibus desers quia interponimur ad sedem Apostolicam, &c.* And about the same times Robert Abbot of Thorney, deposed by Hubert th^e Archbishop, was laid in prison a year and half without any regard had of the Appeal by him made to the Pope: and this to have been the practice during King Richards time, the continued quarrells of Popes for not admitting men to appeal unto them doth fully assure us.

f Hoveden, Ann. 1201. fol. 465. a. 21

33. But Innocentius 3rd having prevailed against King John, and the Clergy great instruments in obtaining *Magna Charta* from that Prince, either in favour of them, or for some other reason, there was inserted, *Licet unicuique de casero exire de regno nostro & redire salvo & secure per terram & per aquam, salva fide nostra, nisi in tempore guerra per aliquod breve tempus: which clause seems likewise to have been in that of Henry the 3rd to his Fathers in nullo dissimilis: after which it is scarce imaginable how every petty cause was by Appeals removed to Rome, and th^e Archbishop forced to appear before any had the least auctority from thence.*

h Magna charta apud Mat. Paris pag. 258; 53. Lond. 1640. i Mat. Paris Ann. 1224. pag. 313, 28.

The Popes themselves wise men saw th^e inconvenience, that these carriages must end either in rendring th^e Archbishop contemptible, by taking all power out of his hands, or the Realm resume its ancient right, and prohibit the carrying ought beyond seas, or admitting any Legat into the Kingdom; thought of the way of granting severall priviledges to the Archbishoprick, which first began about the time of Innocentius the 2. whom others followed.

34. Gregory the ninth therefore moved by one of them

F

them

k Bulla Gregor. ix. in aliquo MS. dat. Interamnaz 27. Iunii, 1236.

* Frivola Appellatio quæ dicitur, vide Lindwood cap. 2. verbo frivole, de Appellationibus. scilicet quæ vana & inanis, vel quando nulla causa est expressa, vel non legitima, dato quod sit vera, vel licet sit legitima, est tamen manifeste falsa. Et vide ibid. verbo Pallietur. . . At Viterbo 4. Martii, 1235. l. Col. 1665, 25. * Sic MS. sed legendum tuæ. . . At Perusium 6. Maii 1235.

them (which seems to be St. Edmund) writes thus unto him : *k* *Ut cum appellationis remedium non ad defensionem malignantium, sed ad oppressorum subsidium sit inventum, yet th' Archbishop attempting sometimes excessus corrigere subditorum, quidam eorum, ut correctiorem effugiant, appellationes frustratorias interponunt, quibus si cite pro reverentia sedis Apostolica humiliter deferatur, illi ex impunitate deteriores effecti pejora presumunt, & alii eorum exemplo redduntur ad vitia promiores; unde humiliter postulastis, &c. -- ut providere super hac solita diligentia deberemus: ut igitur auctoritati tue in rectis dispositionibus nihil tali pretextu deesse contingat, fraternitati tue presentium auctoritate concedimus, ut, non obstante * frivola appellationis objectu, libere valeas in corrigendis subditorum tuorum excessibus officii tui debitum exercere.*

35. . . And for that his Agents here in their citations of th' Archbishop did not use that respect unto him which was fit, but as Gervasius Dorobernensis observes of one of them, *Legati privilegium plusquam deceret extenderet in immensum, suumque Archiepiscopum & Episcopos Angliæ ut sibi occurrerent quolibet evocaret; the same Pope did therefore declare, that, cum nimis indecens videatur, ut per literas Apostolicas tacito tuo nomine dignitatis inter privatas personas stare iudicio compellaris, nos fraternitatis tua precibus inclinati, auctoritate tibi presentium indulgemus, ut per literas à sede Apostolicâ impetratas quæ de dignitate tua non fecerint mentionem respondere minime teneris; &c. Dat. Viterbii 4. Non. Martii, Pontif. nono.*

36. . . And because th' Archbishop had on many slight occasions been drawn beyond seas, to the great impoverishing th' Episcopacy, the same Pope two months after writes, *Ea propter, venerabilis in Christo frater, tuis supplicationibus inclinati, fraternitati tue auctoritate presentium indulgemus, ut per literas Apostolicas extra Angliam*

Angliam invitus non valeas conveniri, nisi de indulgentia hujusmodi fecerint ea litera mentionem, aut per te aliquod factum fuerit per quod sit indulgentia huic derogatum. Dat. Perusii 4. Non. Maii, Pontificat. nono.

Innocentius 4. ut nullus sine speciali Apostolica sedis licentia, prater Legatos ipsius ab ejus latere destinatos, in personam tuam præsumat excommunicationis sententiam promulgare. Lugduni 13. Kalend. Octob. Pontif. 4.

*At Lions the
19 September*

37. It would be tedious to repeat all the bulls found in the said old MS. and other books since 1130. (for before it seems there was none in this kind) to conserve some power in th' Archbishoprick, yet so as it might ever depend on Rome; and how much the Papacy gained by these, every man sees.

I. The right of th' Archbishoprick was, none by appeal might remove any Ecclesiastick cause from his judicatory: the Pope grants, he shall proceed notwithstanding a frivolous Appeal.

II. The right was, he was not at all under any Legat: See before the grant is, he should not be tyed to answer, if they did not mention his dignity in their citations. ^{n. 17.}

III. The right was, he should not be drawn beyond the seas (of which in the next:) the grant is, he should not be compell'd to go, unlesse mention were made of that Bull.

IIII. The question was, whether the Pope might excommunicate any within the Diocese of Canterbury: the grant is, None but a Legate de latere should th' Archbishop. ^{Cap. 2. n. 17.}

Yet certainly Popes did what they well could, retaining to themselves that vast power they then pretended, to conserve in the Archbishoprick some auctority.

38. But the frequent citing him and others out of the Realm, and the carrying their causes to Rome, did not at all satisfy the subject; whereupon the body of the Kingdome, in their querulous letter devised and sent by them to Innocentius 4th. 1245, (or rather to the

*Apud Mar-
patis p. 60.*

gndm

n Note, this is omitted in the copy of this letter in *Mat. Paris* which is found in other MS. copies of the same, as in one my learned friend Mr.

Wm. Dugdale helped me to the sight of, the Book it self belonging to Mr.

Reper of *Lincolns* Inne, in which it is fol. 117, b. and ought to be in all; for in the *Gravamina Anglie* sent to the same Pope 1246. one is,

quod Anglici extra regnum in causis auctoritate Apostolica trahuntur.

Mat. Paris pag. 699, 10.

o Regist. 193, b. Cook, Instit.

3. pag 179. p Parl. at

Cambridge 12. Ric. 2.

cap. 15. apud Henricum

Knighton col. 2734, 40. 5. Ric. 2. cap. 2.

q Hen. Knighton col. 2601, 44. * Henry Beaufort. r Rot. Parl. 10. Hen. 6. n. 16.

Councell at *Lions*) claim as an especial privilege, That no Legat ought to come here, but on the Kings desire, * *Et ne quis extra regnum trahatur in causam*: and at the revising of *Magna Charta* by *Edward* the first, the former clause was left out, since when none of the Clergy might go beyond seas but with the Kings leave, as the * writs in the Register, and the Acts of Parliament assure us; and what is more, if any were in the Court of *Rome*, the King called them home, not permitting any to go or abide there longer then his pleasure. Yet I do not say these times do not furnish examples of Appeals or recourse thither, or receiving commands from thence; I know the contrary: but it was onely between those, and in such cases, as the King (holding good correspondency with the Pope) and State did either tacitely connive at, as in matters of small moment, or expressly give allowance unto: for if otherwise, no person was so great, but he was forced to gain his pardon for the offence. To which purpose th' example of the * rich Bishop of *Winchester* may not be unfitly remembred, who being a Cardinall of the Kings blood, was employed by *Martyn* the 5. as generall against the *Bohemians*, and to that end erected the Crosse 1429. 8. Hen. 6. but two years after caused a petition to be exhibited in Parliament, * *That he the said Cardinall nor none other should be pursued, vexed, impeded, or grieved by the King, his heyres or successors, nor by any other person, for cause of any Provision, or offence, or misprision done by the said Cardinall against any Statute of Provisions, or per cause of any exemption, receipt, acceptation, admission or execution of any Bulls Papall to him in any manner made: Which was granted, and shews that without it he had been liable to punishment for his accepting and receiving of them. And here it is not unworthy the re-*

membring,

membring, that this was the first Cardinal England ever saw a Privy Counsellor. He having sometimes sought that dignity in Henry the 3th time, upon the news, the Archbishop of Cant. gave the King notice of it, in a letter yet extant; which did so affect that Prince, as he was sometimes heard to say, * *that he had as lieve set his crown beside him, as see him wear a Cardinals hat*. But he being soon after taken away, and the honour conferr'd on this Prelate in June 1426. by Martin the 5. * at his coming into England, the Lords of his Majesties Councell caused him to make a Protestation for his comportment in the future; and the 8th of Hen. the 6. it was agreed by the Lords in Parliament, he should be on the Kings part required to attend his Majesties Counsells, *sub protestatione tamen subsequente, quod quotiens aliqua, materie, causa, vel negotia ipsum Dominum Regem aut regna seu dominia sua ex parte una, ac sedem Apostolicam ex parte altera concernentia, hujus concilii regis communicanda & tractanda fuerint, idem Cardinalis se ab hujusmodi consilio absente, & communicationi eorundem causarum, materialium, & negotiorum non interfit quovis modo, &c.* and yet his former engagement made to the Councell to be firme and inviolable. Upon which the said Cardinal the 18. of December 8. H. 6. Ann. 1429. after his thanks to the King and Lords, and his admitting the said Protestations *tanquam rationi consonas*, was received for one of the Councell. But I return to that I was treating of.

39. The truth of this barring Appeals is so constantly averr'd by all the ancient monuments of this Nation, as one not finding how to deny it, falls upon another way, & that if the right of Appeals were abrogated, it concludes not the See of Rome had no jurisdiction over this Church, except one should be so senselesse as to imagine the Prefect of the Pretorian Court were not subject to th' Emperors authority, because it was not law-

* Hille 20.
Hen. 6.
The complaint made by the Duke of Gloucester against the said Cardinal, Art. 2.
* Rot. Parl.
8. Hen. 6.
n. 17.

f Philip Sec.
of Schism of
England pag.
174.

ff. de officio
Protest. lra-
tor. leg. unica.
Vide Cassio-
dor. lib. 6.
variar. 3.

full to appeal from them, according to the Law in the Digests. To which I answer, that if it be granted (which is very disputable) this Law is to be extended to th' Emperor, yet it proceeded from himself, who might limit his own power: but he is desired to consider, this canon of Appeals did not from any Pope; for the *Africans* did, and the Church of *England* doth maintain it as an inherent right of their own, to give Laws in that particular, and ever had strong contests with the Papacy about it, which held it an honour not to be parted with; and they opposing him in it, must of necessity have held that superintendency he exercised over them not to be *jure divino*, for then no man could have exempted himself from having recourse unto him. In *France* there are severall Courts of Parliament from which no Appeal lies, who receiving that privilege from the King, it cannot be said to be in diminution of his Royalty, because that they have, he gave: but if ever any of them should claim this as of their own right, denying the King to have at any time a power of intermeddling with them, I shall leave the objector to draw what consequence he will from it; for my part I can no other, but that they esteemed themselves very little his subjects.

* Wm. Thorn
col. 1804, 44.
* Toban. Hag-
gustad. col.
273, 61. Ann.
1145.

40. The reader will pardon this digression, which I have the longer stood upon, to give him the more full satisfaction how Appeals were first brought in, and how pursued; I shall now, in what manner the Legat and Archbishop prosecuted theirs: who being * both before *Lucius* the 2. 1144. the Bishop of *Winchester* was * dismiss his legatine commission; and the Pope finding with how great difficulty the Ecclesiastick affairs of this Kingdom could be managed by any Legat without the Archbishop of *Canterbury*, thought of a very subtle invention to conserve his own auctority, and not have any crossing with that Prelat, which was to create him and his successors *Legati nati*; by which, such things

as

as he did before, and had a face of enterfeering with the Papal plenitude, and were not so easy to devest th' Archbishop of exercising, he might be said to do by a Legatine power: of which it was not long before the Pope made use, as is to be seen in his *Decretalls*; where *Alexander the 3.* resolves he could not hear *jure metropolitico* matters Episcopall that came not unto him *per appellationem*, (that is in a legall way) but *jure Legationis* he might such as were brought unto him onely *per quarimoniam*: an invention^a often practis't afterward, and highly advantagious to the Court of *Rome*, as what made Bishops but his Deputies.

41. The^a *Antiquitates Britannica Eccles.* and from him^b *Harpfield*, speak as if this honour were first bestowed on *Theobald*; which it seems to me could not be, till the taking it away from *Winchester* by *Lucius the 3.* after the death of *Innocentius 2.* ^c *Diceto* sayes, *Celestinus 3.* (about someten years after *Lucius*) bestowed on *Hubert plenitudinem potestatis in officio Legationis inauditam à seculis*. I confesse I do not well understand in what it did consist, that had not been formerly heard of, to whom the Pope had committed^d *Vices suas in Anglia & Scotia*; but it fully proves that power derived from *Rome* was then looked on as a thing newly crept in. But whosoever did first confer it, the matter is not great: certain it is, by it the Papall auctority was not a little in time increas't, there being none of the Clergy almost to question ought came from *Rome*, the Archbishop, on whom the rest depended, himself operating but as a Delegate from thence.

42. To which purpose it may not unfitly be observed, that when the Papacy did first attempt the exempting some great monasteries from the jurisdiction of their Ordinary, it was^e *salva primatis reverentia*, or, as *Malmf-*

ved. Ann. 1190. col. 380. b. 14. So that the Court of *Rome* knew how to turn this, notwithstanding all opposition, to its no small advantage. ^f *Eadmer. 62, 34. Malmf. f. 137. a. 5.*

^y *De Officio Legati cap. 1.*

^z *Vide Borchell. Decreta Eccles. Gallican. pag. 918. Concil. Trident. sess. 5. cap. 1. 2. & multis aliis locis.*

^a *In Theobaldo p. 115, 47. edit. 1572. b. Seculo xii. p. 328, 15. c. Ann. 1195. col. 679, 7.*

^d *Ger. Dorobern. col. 1663, 64.*

^e *The Bishop of Ely 1191. says Rich.*

the 1. acquired him that honour. Ger. Dorobern.

col. 1565, 46.

and the King,

himself ex-

postulates in

Hoveden with

the Bishop of

Hoslia, that ir

cost 1500.

marks. Ho-

bury

bury explains it, *Archiepiscopi tantum nuntium in legitimis spectaturus*. But how ever thus carefully penned not to thwart with th' Archbishop, being brought hither was taken away by *Sanfrank*, nor permitted to be made use of, the Abbot finding no other way to regain it but *multorum preces*. Yet afterward the Pope without scruple exempted them not onely from their Diocesan, but even such as were under th' Archbishops nose, with all pertaining to them, were taken out of his own jurisdiction; and he who at first preserved others rights, had those houses now at an easy rate removed from his own. A fact of infinite advantage to the Papacy, by which it had persons of learning in all parts, who depending wholly on it, defended what was done to be by one had a power of doing it; and he who at first did solely *agere vices Apostolicas in Anglia*, was under no Legat, permitted no Bul from Rome to be made use of in England, but by his approbation, was so far now from taking them away from the bearers, as *private Clerks* by deputation from thence did sit his superiors in determining differences between him, and others who by strength were taken from his jurisdiction.

43. After which, Popes having gained an entrance, found means to reduce the grant of *Legatus natus* to no more then stood with their own liking, by inventing a new sort of Legat styled *Legatus à latere* (¹ by reason of his near dependance on the Popes person) who employed in matters of concernment, at his being here the power of the former slept: = which distinction of Legats seems to me to have had its birth after 1180. first applied by any of our writers to *Iohannes Anagninus Cardinalis* 1189. by *Hoveden*; which style yet others who then lived do not give him. Of this Legat it is that *P Henry Chickley* in a letter, yet extant under his own hand, wrote to *Henry the 5.* that *Be Inspection of Lawes*

f Eadmer.
ibid. lin. 37.

g Vide Petri
Elesens. E-
pist. 68.

h Eadmer.
pag. 58, 44.
i G. Dorob.
col. 1663, 55.

k Vide bul.
Iohan. 22.
apud Gu-
lielm. Thorn,
col. 2041, 1.

l De Officio
Legati cap. 9.
Gloss. ad ver-
bum Com-
missam,
m Vide Ger.
Dorobern.
Ann. 1188.
col. 1532, 55.
or 1533, 3.
n Hoveden.
Ann. 1189.
fol. 377. a. 10.
o Diceto col.
649, 42.

Ger. Dorob. p *Habetur in vita Henrici Chickley ab Arthuro Duck edita. 1617.*

and

Chap.III. of the Church of England. 41

and Chronicles was there never no Legat à latere sent in to no lond, and specially in to your rengme of England, w^{ith}out greas and notable cause. And thei when thei came, after thei had done her legacie abiden but lissul wyle, not over a yer, and summe a quarter or ij. monthes as the nedes requeryd: And yet over that he was tressyd w^{ith} or he cam in to the lond, when he schold have exercise of his power and how myche schold bee put in execution: An aventure after hee had bee rescyved hee whold have used it so largely to greets oppresson of your peple: as indeed if he stayed long, he sometimes gained the censure of being *occultus inimicus regni*; but this was not till the Popes had brought th' Archbishops much under, by laying a necessity on them of receiving the Pall from Rome, and at the taking of it of making profession *de fidelitate & canonica obedientia*, that is, had obliged them by Oath to defend *regalia Sancti Petri*. Of which, because I find th' introducing (not much touched by our writers) a great means to advance this forraign power, it will not be amisse to say somewhat; and first of the Pall.

44. The *Pallium* (from whence our English word *Pall*) was a garment with which the Professors of Arts, as *Grammar*, *Rhetorick*, *Musick*, might cloath themselves (as it seems to me by ¹ *Tertullian* they did); yet was held most proper for such as professed Philosophy: And therefore when a ¹ begging fellow came to a noble Roman *palliatas & crinitus*, being asked what he was, the mai^r half angry replied he was a Philosopher. *& mirari ut quarendum putasset quod videret*: to which the Gentleman returned, *Barbam & Pallium, Philosophum nondum video*. From whence I gather, it was for the most peculiar to them. So ¹ *Eusebius* shewes on *Heracles*, ¹ *quod opus erat, ut sibi sumpsit taking the habit of a Philosopher*, notwithstanding his being a Christian, retained it: and *lib. 8. cap. 21.* at the martyrdom of *Porphyrius* a disciple of *Pamphilus*; he describes that

¹ M. Paris
Ann. 1240.
pag. 524-43.

¹ De Pallio
cap. 6.

¹ Aul. Gellius
Noct. Attic.
lib. 9. cap. 20.

¹ Euseb. Hist.
lib. 6. cap. 13.
Grec. ed. A.

a short cloak or Pall covering the shoulders.

45. But it seems the primitive Christians in wearing of it did attribute some Sanctity to the garment; for *a grande pallii beneficium est* (saith *Tertullian*) *sub cujus recogitatu impii mores vel erubescunt*: whereupon the * Councell of *Gangra*, not an 100. years after, pronounced him *Anathema* used the *Pallium quasi per hoc habere se justitiam credens*, &c. Now from the danger of superstition of the one side, and the being especially worne by Philosophers of the other, I am apt to think it became in the end proper onely to some Bishops, who might challenge it as learned Philosophers, yet not at all likely to attribute more to the Robe then reasonable; and in time, either by collation of Emperors, or otherwise, appropriated to some particular Churches, who having that mark, were after the seats of Archbishops for the most part. For though *Alcuinus* be of opinion the Pall is nothing but a distinction between an Archbishop and his suffraganes: yet, under favour, I conceive that must be taken of th' acception of the word in the time helived; not as used in *St. Gregories* dayes, who gives *Augustine* at the bestowing the Pall upon him the title of Archbishop no more then he doth *Syagrius* Bishop of *Austun* in *Burgundy*; which Town, notwithstanding that guist by *St. Gregory*, was never reputed to have other then an Episcopall chair, and suffragan to the Archbishop of *Lions* to this day. So that certainly, at first, all that had the Pall were not *eo nomine* Archbishops, to whom it became especially proper after the Emperor relinquishr it to the Popes disposing, who at first no question had a good part in the conferring of it himself.

a *Tertul. de Pallio* cap. 6.

x *Concil. Gangrense* circa Ann. 350. can. 12.

y *Pallium nihil aliud est nisi discretio inter Archiepiscopum & ejus suffraganeos*. *Alcuinus de Divinis Officiis* cap. quid significant vestimenta. *Gregor. lib. 12. Epist.*

15. *a Greg. lib. 7. Epist.* 112.

b *Hieron. Rubicus Hist. Ravennae. Italia Sacra*, to. 2. col. 331. or 332.

46. The deed is yet extant by which *Valentinian* bestowed it on the Church of *Ravenna*, about the year 450. I know ^b some, who find not how to deny it, hold this an honourable vestment, such as Emperors themselves

selves wore; which opinion ^c *Baronius* justly confutes, and rather thinks it forged: yet he, ^d citing out of ^e *Lib. 1. Epist. 27.* *beratus*, that *Anthemius* expell'd the Church of Constantinople, *Pallium quod habuit, imperatoribus reddidit, & discessit*, gives no gloss how he could return to the Emperor his Pall and depart, if he had nothing to do with it: and it is manifest, in *Gregory* the greats dayes, that Church did not onely prescribe for the use of the Pall, but for doing it contrary to the will and opinion of that Father. And the same Doctor elsewhere ^f saith, he had dealt *apud piissimos dominos*, the Emperors, to send him *Anastasius*, *concesso usu Pallii*: and afterward being desired by *Brunichilda* to grant it to *Syagrius*, (of whom before) he shews his readinesse, ^g *propter quod & severissimi Domini Imperatoris prona voluntas est, & concedi hac omnino desiderat*. So that certainly, at the beginning, if Princes did not bestow it, yet it was not done against their wills; which after-times did in *Europe* solely appropriate to the Pope: who yet gave it not against their liking; as ^{*} *Lucius* the 2. sending it to the Bishop of *Winchester*, who yet never made use of it, teacheth us.

47. But what this Pall imported, or what the receiver had of advantage by it, writers I think do not always agree. ^h *Isidorus Pelusiotus*, who writ about the year 430. is of opinion, the Bishop, as a type of *Christ*, wears that cloak of wool, to shew himself imitator of the great shepheard that will bear the strayed sheep on his shoulders. ⁱ *St. Gregory* sayes, it signifies humility, justice, &c. I have shew'd before *Alcuinus* his opinion of it. But what soever signification it was at first thought to carry, certainly, the necessity of fetching it from *Rome* was not so urgent, as in these later the Papall interest made it esteemed. We do not read that ever *Laurentius* or *Mellitus* received thence the Pall; yet no man doubts of their being as lawfull Archbishops as *Augustine* was. ^k *Giraldus Cambrensis* and *Hoveden* agree, the

^c 10. 5. Ann. 432. n. 93.
^d Baron. 10. 7. Ann. 536.
^e n. 17.
^f c. Brevic. Lib. erat. cap. 21.
^g 10. 2. concil.

^f Lib. 1. Epist. 27.

^g Greg. lib. 6. Epist. 5. Indic. 1.

^{*} Diceto Ann. 1142. col. 508.

^h Lib. 1. Epist. 136. apud Baron. 10. 2. Ann. 216. n. 15. & 10. 7. Ann. 553. n. 7.
ⁱ Lib. 7. Epist. 129. Indic. 2.

^k Itin. Cambr. lib. 2. cap. 1. Hoved. Ann. 1199. fol. 453.

Bishops of *St. Davids* in *Wales* did use the Pall, till *Samson*, about the time of the *Saxons*, flying from an infection, carryed it with him; yet neither of them report him to have fetch't it from *Rome*: nor after the wanking it, did the rest of the Bishops there either refuse his consecration, deny obedience to the See, or make profession to any other, before *Henry* the first induced them by force. But to come to the *Saxons*: after *Paulinus*, there are five in the Catalogue of *York* expressly¹ said to have wanted it, (amongst which *Wilfred*, that^m ruled all the North as his Bishoprick) yet are reputed both Archbishops and Saints; and of others in that series it will not be easy to prove they ever used it. *Albertus* the 8. Bishop about 767. had it not till the seventh year^m *accepti Episcopatus*: nor^o *Adilbaldus* or *Ethelbaldus* the 14. Anno 895. till the fourth year *postquam acceperat Episcopatum*. An undoubted argument that Canon of *Pelagius*, recorded both by *P. Ivo* and *Gratian*, that no Metropolitan should defer above three months sending for it to *Rome*, was never received in this Church. ²*Gregory* the great sayes, it ought not to be given, *nisi fortiter postulanti*: and the same^l Father with a Councell at *Rome* Anno 595. decreed, *pro pallio omnino aliquid dare prohibeo*. So that in those times the one side perhaps did not much urge the taking of it, nor the other greatly seek after a thing brought small advantage, and was so far to be fetch't.

¹Thom. Stubbs in
vit. Archiep-
iscop. Ebor. col.
1697. 2.
^m Bed. lib. 5.
cap. 20. Vide
lib. 4. cap. 12.
ⁿ Sim. Du-
nelm. Epist.
ad Hugonem
col. 78, 49. &
T. Stubbs, col.
1697. 15.
^o Ibid. col. 79.
21. & col.
1698. 57.
^p Part. 3. can.
136.
^q Dist. 100.
cap. 1.
^r Lib. 7. Epist.
5.
^s Lib. 4. Epist.
44. Ibid. 15.

²Elorest.
Wigorn. pag.
195. & In-
gulph. fol.
508. a. 53.
³Malms. fol. 41.
b. 39.
⁴Graviter
mactatum
Eadmer. pag.
98. 10.
⁵Mar. Paris
pag. 274. 4.

43. But after the Court of *Rome* began to raise to it self a revenue from other Churches, this *Pallium*, that was no other then a distinctive ornament, not to be payed for, began to be set at so immense a rate, that⁴ *Canutus* going to *Rome* 1031. did mediate with *John* the 19. that it might be more easy to his prelates: in which though he had a favourable answer, yet in *Hen.* the 1. his time it was so much, th^t Archbishop of *York* could not pay the money, without an^m heavy debt. ⁵*Mat. Paris* doth

doth intimate as if *Walter Gray*, translated from *Worcester* to that See 1215, had not his Pall at leſſe then ten thousand pounds: *accepto pallio* (ſaith he) *Episcopos memoratus rediit in Angliam, obligatus in curia Romana de decem millibus librarum ſtirlingorum*; which was about the ſilver of 30000^l. now, Coin being then after the rate of 20^d. the ounce. But after times, according to the Biſhop of *Landaffe*, reduced it to the certainty, that each Biſhop payed 5000. ſhillings for it, every one of the value of 4^s. 6^d. our money: which yet I do not ſee how to make agree with the *Antiquit. Brit. Eccleſia*, that ſpeakes onely of 900. *aureos ducatos* payed by *Cranmer*.

y In Catalog. Episc. in fine Archiepisc. tam Cant. quam Ebor. 2 Antiq. Brit. ven. Lond. pag. 182. 32. Hannoveria pag. 327. 48.

49. But to omit the gain came by the garment; that certainly was a means of drawing a great obligation from all Archbiſhops to the Papacy: for about 1002. a new oath *de fidelitate & canonica obedientia* was deviſed, to be tender'd every Archbiſhop at the reception of it. For the more full underſtanding of which, we are to know, *William* the firſt, after he had ſettled the Kingdom in quiet, wholly poſſeſſed of it, would not in any kind acknowledge a farther obedience to *Rome* then his predeceſſors had; but mainrained the rights of the Kingdom in every thing, againſt the liking of that Court in many particulars, barring all men for taking any for Pope, but whom he deſigned; inſomuch as after *Gregory* the 7. 1084. till 1095. about 11. years, there was no Pope acknowledged in *England*; denying any to receive letters from thence, but acquainting him with them, and many more; of which elſewhere all which being exerciſed by him, were never queſtioned during his time, nor while *Lanfrank* lived after him, (though he hath been ever reputed an holy man.) But *Matſelme* ſucceeding in his ſeat, great contentions aroſe between him and *William* the ſecond: The King with the Nobility preſſing him; as the uſage of the Realme,

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a Vide Baron. 10. 11. Ann. 1071. 8. 21. 25. & 1079. Lanfranci Episc. 7. pag. 304. b Eadmer. pag. 25. 40. vide Lanfranci Episc. 7. pag. 304. c Eadmer. pag. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 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2005. 2006. 2007. 2008. 2009. 2010. 2011. 2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041. 2042. 2043. 2044. 2045. 2046. 2047. 2048. 2049. 2050. 2051. 2052. 2053. 2054. 2055. 2056. 2057. 2058. 2059. 2060. 2061. 2062. 2063. 2064. 2065. 2066. 2067. 2068. 2069. 2070. 2071. 2072. 2073. 2074. 2075. 2076. 20

46 An Historicall Vindication Chap.III.

d Ibid. p. 40, 5.
32.

not to depend on *Rome* as of necessity: he, on the other side, ^d declaring all such customes to be contrary to Divinity, right, &c. chose rather to live an exile all that Kings time, then any way submit to those customes, had been practis'd, never disputed or questioned by any Archbishop herebefore.

e Lanfranc.
Epist. 8. pag.
303. col. 1.

50. But, that Prince being soon after taken away, and *Paschalis* the 2. succeeding almost at the same time, (considering, as it seems, by what weak bands forraign Bishops were tyed to the Papacy, how easy it was for them to fall from it; that ^e *Gregory* the 7th was not satisfied even with *Lanfranks* carriage in *Episcopali honore positus*, who restrained his obedience to *canonum precepta*; that *Anselme* alone had opposed the whole body of the Kingdome; that every Prelat might be neither of his temper or opinions,) framed an oath, the effect of which you may see in *Diceto* ^f *Ann.* 1191.

f col. 663, 6.

* Note, where you read in the lives of the Abbots p. 140, 22. regalem, and in his Hist. p. 414, 22. regalis, both should be regalia, for so we find it at the end of the Councell of Vienna, 10. 4. concil. gen. Romæ 1608. & 1612. agreeing with an old Copy of that oath I have seen in the Exchequer, which the Decretalls de jure jurando cap. 4. read thus: Pa-

patum Romana Ecclesia & regulas Sanctorum Patrum adiuvare erit; &c. but *Ordericus Reynoldus* 10. 14. *Ann.* 1233. n. 65. citing out of the records in the Vatican the oath *St. Edmund* Archbishop of *Canterbury* took, reads it rightly regalia. g *Baron.* 10. 12. *Ann.* 1102. n. 6, 7, 8. h *De electione & electi potestate* cap. 4. i *Eadmer.* p. 34, 33. k *Eadmer.* p. 113, 43.

prius

Chap. III. of the Church of England. 47

pius de fidelitate & canonica obedientia professione. *Romano Pontifici*
Deinde pro reverentia beati Petri ab omnibus deoscula-
tur, &c. Which profession being never met with as
made by any Archbishop of *Cant.* before, but frequently
after by such as were his near successors, as *Tho. Becket,*
Baldwine, &c. we must conclude him to have been the
first from whom it hath ever been required. I know: *Bel-*
larmino interprets a Bishops returning out of schisme
602. and voluntarily by oath promising to live in com-
munion with the Pope, to be a swearing of obedience
to that chair: but certain there is a difference between
obeying and living in communion; (of which see *cap. 7.*
n. 4.) between an oath enforced, and one voluntarily
taken. After this, as wayes to augment the Court, ma-
ny priviledges were annexed to it; ^m as that none be-
fore his receiving that ornament might *convocate coun-*
cells, make Chrisme, dedicate Churches, ordain Clerks,
consecrate Bishops, that being ⁿ *Pontificalis officii plenitu-*
do, till he had it, none to be styled an Archbishop;
things added after mens holding a necessity of seeking
it, did so much contribute to the Papall advantage,
both in point of honour and profit. For it is manifest,
Lanfrank, Anselme and Raulf did dedicate ^o Churches,
^p consecrate Bishops and Abbots, were called ^q Arch-
bishops; whilst they wanted it.

51. Now the ice broken, this Oath (at first required
onely of Archbishops when they took the Pall) was by
^r *Gregory* the 9. *mutatis mutandis,* imposed on Abbots
and Bishops. About 1235. came into England *occulta*
clausa sub bulla, the ^t liketo which had not been seen,
was profered to *John* 23. Abbot of *St. Albans* unacquaint-
ed with it, when he could not ^u *ab illa obligatione res-*
lire; who is therefore noted, that ^v *primo inustus &*
doctus Romanorum jugum subiit servitutis, and that ^w *pro*
omnibus Romanorum oppressiombus novis & inauditis co-
pag. 10, 39. u *Ibid. pag. 140, 39. x* *Ibid. pag. 141, 49. y* *Ibid. pag. 142, 1.*

I *Diceto est*
5348. *Get.*
Doroher. col.
1307. 2.

De Rom.
Pont. lib. 3.
cap. 11. §. In-
ramentum.

m *De Elect. &*
Elect. potest.
cap. 28. §. 2.
verbo prae-
rea.

n *De auctor.*
& usu Pallii
cap. 3. Vid.
council. Lati-
ramense sub In-
nocentio 3^o.

cap. 3.
o *Eadmer.*
pag. 22, 19.

p *Ibid. pag. 6.*
46. pag. 23, 31.
pag. 111, 6.

q *Ibid. pag.*
23, 42. p. 111,
32. & passim

apud Histori-
cos.

r *De jureju-*
rando cap. 4.
f *Mat. Paris*
Vit. Abbas.
pag. 140, 31.
f *Mat. Paris.*
Hist. major.

pag. 142, 1.

piti

Mat. Par.
Vit. Abba.
pag. 133, 23.
pag. 141, 52.
56.

. Sess. 25.
cap. 2.

Vita Abba.
St. Albani
MS. in To-
bano 3. Ab-
bay 25.

piu molestari, &c. The thing I find of greatest exception is, the obligation injoyning them to visit *Rome*, which being in pursuance of the 26. chapter of the Councell of *Latean*, held onely 20. years before, is censured & *Dammum*, *gravamen*, *prajudicium*, *injuria*, *jaetura*, as that which alter'd the nature of the Church, which had been from the foundation *libera & ingenua*, and was thus brought to serve the ends of the Court of *Rome*. Truly after this I cannot see how there can be said to have been a free Papall Councell in *Europe*, when such as it consists of (being, for the most, Bishops and Abbots) come with so high an obligation as an oath to defend the usages of *Rome*, under the title of *Regalia Sancti Petri*. In pursuance of which the Councell of *Trent* did expressly charge all Patriarchs, Archbishops, Bishops, and other, who in future should meet in Provinciall Synods, that *veram obedientiam summo Romano Pontifici spondeant, & profiteantur*. I wish it had express'd what that had been.

52. To return to that I was treating of. This visiting the *Roman Court*, however much prest on this Monastery of *St. Albans*, yet was ever excused till 1290. *John* the 3. and 25. Abbot was forced to go thither for his confirmation: but because the book is not printed, I will give you my^a Auctors own words. *Iohannes de Berkamsted, vir religiosus & honesta conversationis, hic in crastino conceptionis beate & gloriosa virginis Maritz, scilicet quinto idus Decembris, anno Domini MCC. nonagesimo, per viam compromissi de gremio Ecclesie concorditer electus, ad curiam Romanam primus omnium abbatum hujus Ecclesie, pro confirmatione electionis sue obvianda, personaliter accessit, ibique confirmatus est a summo Pontifice Nicholao, & a venerabili L. Ostiensi Episcopo & Cardinali apud urbem veterem munus accepti benedictionis; & sic data maxima pecunia Papa, & Cardinalibus, & aliis de curia, quam de mercatoribus Papa duris*

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duris conditionibus ex mutuo recepit, ab illa insatiabili curia cvasit, expletisque negotiis domum redire festinavit, &c. By which we may see who of this house went on this occasion first thither, and why it was so earnestly urged from thence. As for the Monastery of *St. Augustins*, by reason of the often contentions with th' Archbishop, the Monks there were much more prone to yield obedience to *Rome* (who maintained them for the most against him) then these other were: yet the first of them I find to have ^b took this oath was *Roger* the 2. elected Abbot 1253. For though the ^c benediction of *Robertus de Bello* 1224. were at *Rome*, where he gained th' Abbacy; yet there being no mention of any oath presented to him then, we must think it came in afterwards. But for the fuller understanding how this visiting the *Roman* Church came in, the Reader will give me leave a little to digresse.

^b Wm
Thorn, col.
1899, 22.
^c Ibid. col.
1890, 3.

53. Christians in all ages have esteemed it a point of singular piety and devotion, for any Ghostly Father or Doctor to have a care of those to whom they have the relation of being a Spirituall Superior, either by planting Christian Religion amongst them, reducing them out of error, or otherwise some engagement on them. Saint *Paul* sent for the Elders of *Ephesus* to come unto him at *Miletus*, from whom they received those wholesome instructions we read in the ^d Acts of the Apostles; and according to this example there are divers exhortations in the writings and Epistles of the Fathers. Before the year 517. a ^e Councell held at *Tarragona* in *Spain* did ordain, that every Bishop, *impletis duobus mensibus, se Metropolitani sui representantes aspectibus, ut ab illo monitis Ecclesiasticis instructus, plenius quid observare debeat recognoscat: quod si forte hoc implere neglexerit, in Synodo increpatus à fratribus corrigatur.* Agreeing to which, ^f *Justinian* in the year 541. did establish by Law, that for the better observance of th' Ec-

^d Acts xx.
17. to the end.

^e Cap. 5. tom. 1.
Concil.

^f Novel. 123.
cap. 10.

H

clesiastick

cleraſtick rules, every *Archbiſhop*, *Patriarch*, and *Metropolitan*, *Sanctiſſimos Episcopos ſub ſe conſtitutos in eadem Provincia ſemel aut ſecundo per ſingulos annos ad ſe convocare*. And Pope 8 *Zachary Ann. 743*. in a Councell at *Rome*, *Omnes Episcopos qui hujus Apoſtolica ſedis ordinationi ſubjacebunt, qui propinqui ſunt, annuè idibus menſis Maii ſanctorum Principis Apoſtolorum Petri & Pauli liminibus præſententur, omni occaſione ſepoſita, &c.* * After which *Charls* the Great did by law ordain, *ut unusquisque præbyter per ſingulos annos Episcopo ſuo rationem miniſterii ſui reddat, tam de fide Catholica, quam de Baptiſmo, atque de omni ordine miniſterii ſui*.

g *Baton. 10.9.*
Ann. 743.
n. 19.

* *Capit. Car.*
&c. lib. vii.
cap. 108, 109.

h *Concil.*
Spelm. pag.
237, 238.

54. About which time *Boniſace* an Engliſhman, the Popes Legat in *Germany*, and *Archbiſhop* of *Mentz*, in a Councell held in *Germany* (the decrees whereof he ſent to *Cuthbert* then in the ſeat of *Canterbury*)^h declaring how great the care of the Metropolitan ought to be of thoſe under him, ſhews how every *Presbyter* ſhould once a year in *Lent* give an account to his Biſhop, who was to inſtruct him, and with ſuch things as he could not correct himſelf, to acquaint th' *Archbiſhop* in a Synod; *Vt ſi Sacerdotes vel plebes à lege dei deviaſſe viderim, & corrigere non potuerim, fideliter ſemper ſedi Apoſtolica & vicario Sancti Petri ad emendandum indicaverim: Sic enim, ni fallor, omnes Episcopos debent Metropolitano, & ipſe Romano Pontifici, ſiquid de corrigendis populis apud eos impoſſibile eſt, notum facere, & ſic alieniſcent à ſanguine animarum perditarum*. *Cuthbert*, according to this adviſe, doth appoint the proceedings of the Biſhop to be to the *Archbiſhop*, in the ſame words he had received it from *Boniſace*; but i paſſeth no farther to the Pope: an undoubted argument, it was not then uſuall in *England*. I have touch'd before, the Conqueror did ſuffer no other correſpondency with *Rome* then what he liked; *Paschal* the 2. quarrell'd with *Hen.* the^k firſt, that *Nullus inde clamor*: to prevent which, this

i conſer *Concil.*
Spelm. p.
238, §. ut Episcopos,
&c. p. 251, cap. 25.

k *Eadmer.*
pag. 113, 2.

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this visiting *Rome* was at the very first inserted into the oath of an Archbishop, who being head of the Province, all the rest might have the same dependance.

55. But because this did not reach such houses and persons as were exempt from the jurisdiction of th' Ordinary, acknowledging no superior but the Pope; the Councell of *Lateran* under *Innocentius* 3. 1215.¹ provided, such as pertained immediately to his rule should present themselves before him for confirmation, *si commode potest fieri*; which was here misliked. But this Councell speaking not home, in that it tolerated the sending ^m *personas idoneas, per quas diligens inquisitio super electionis processu & electis possit haberi, &c.* to make th' excuse, (and being it self (as I shall shew hereafter) not much regarded till *Gregory* the 9, nephew to *Innocentius*, inserted it for the most into the Decretalls, and framed, as I have said, an oath too, for the stricter obligation unto him;) it was again urged by *Alexander* the 4. ⁿ *ut quilibet qui in Abbatem exemptum extunc eligeretur, Romanam curiam adiret confirmandus & benedicendus*: which the same author styles *Statutum enorme et cruentissimum*. And whereas some, finding the burthen of running to *Rome*, had obtained as a priviledge from thence, *ut non teneantur sedem Apostolicam usque ad certa tempora visitare, contra formam prestiti juramenti, ex quo illud evenit inconveniens, quod Apostolica sedis dignitas rarius visitatur, in derogationem reverentia qua ab omnibus debetur eidem*, &c. the same Pope therefore revokes all manner of such concessions to whomsoever formerly granted. In which year, or perhaps 1258, *Simon* (elected Abbot of *St. Edmundsbury*) confirmed by *Alexander* the 4. the 22 October, is⁺ noted to have been *primus exemptorum in Anglia ad curiam Romanam pro sua confirmatione vocatus*.

56. Yet the Court of *Rome*, however thus earnest at first, (either perceiving it ill relisht abroad, and that

H 2

forcing

110m 4. Conti
gen. Rom.

m cap. 26.
Conti. La-
teran.

n Mat. Paris
Ann. 1257.
pag. 951. 41,
44.
o pag. 956, 7.

p Reynald.
Annal. Eccles.
10. 14. Ann.
1257. n. 50.

* Monasticon
Anglicanum
pag. 296. col. 14

¶ *Vita Abbat.*
MS.

¶ Mat. Paris
pag. 972, 51.

¶ W^m Thorn,
col. 2185, &
sequent. col.
2153, 46.

¶ card. Offat.
Epist. 296.
Rom. 22 De-
armbr. 1601.

forcing sodain mutations in Religion not to be of so good consequence) in her prosecution was more moderate. ¶ On *Roger* the xxiiii Abbot of *St. Albons* 1263. I do not find^{it} at all prest; his successor *John* the xxv, I have shew'd, was the first went thither for it. So likewise *Philip* Abbot of Westminster 1258. obtained the favour to stay at home, and *Richard Ware* his successor fetcht his consecration first thence. But after the Court was fully in possession of what turned so much to her advantage, an excuse was s^t hardlier admitted; and if any did obtain the favour to stay at home, he payed a good round summe for it. It is remembred, *Michael* Abbot of *St. Augustins*, elected 1375, did give *Papa & Cardinalibus ut possit benedici in Anglia* 1331-02^s..06^d. and accordingly some other. The Papacy having by these wayes abared the power of th' Archbishop, found it easy, his lett removed, to bring the rest of the Clergy wholly to depend upon it, by raising whom it liked to oppose that Prelat, who were bound to maintain the Papall auctority which supported them in what they did, and wringing the Investitures (so far as lay in their power) out of the hands of Princes, to interest the Pope and his party in severall particulars, under the notion of being matters Ecclesiasticall; by which he brought the elections of Bishops solely to the Convent, excluding both King and others, and became as Patron of most Spirituall promotions in *England*: which^t forme he yet laboured in the end to break too, by reducing all to his own gift. For the understanding of which, as not impertinent to that I treat of, it will be necessary to look a little higher.

57. When any place became destitute of a Bishop, it is certain, in the primitive Church, the Lay as well as the Clergy did concur in nominating who were to s^cceed in the charge; that he who was to have th' inspection of all, might not be brought into it with the repug-

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repugnancy of any. And this custome was so generall, as * St. Cyprian and 36. Bishops more, meeting in Councell about the year 255. writing to certain in Spain, spake as if it did descend *de divina auctoritate*. It is not to be doubted but this course gave sometime opportunity to ambitious and contentious spirits (as * St. Augustine calls them) of troubling the Churches peace: and therefore the Councell of *Laodicea* before the year 360. did appoint the elections to Priesthood not to be * by multitudes; and divers holy Bishops desiring peace might continue after them in their flock, were carefull or ever they dyed to know the person was to succeed in their chair. *Severus* Bishop of * *Mela* in *Africa* had exprest to the Clergy onely, whom he thought fit to have been admitted after him to his Episcopacy. This was likely to have bred some stir, in respect the people were not acquainted with it; had not † *St. Augustine* by his pains and wisdom allayed the dispute: to avoid which, that good man nominated one *Eradius* for his successor, whom the people with loud acclamations approved.

§8. This concurrence or joyning of the Lay with the Clergy (that *qui præsuturus est omnibus ab omnibus eligatur*, as ^a *Leo* speaks) in choice of Bishops, I do no way question to have continued in the Church till after *Charles* the Great, in whose Capitulars we find, ^b *Episcopi per electionem cleri & populi eligantur*; and to have been sent hither by *Gregory* the Great, who in ^c his Epistles makes often mention of it, as we do find ^d steps of it in our own Historians. Yet certainly, however there might be some formalities of the people, the chief of elections here ever depended on the Prince; as may be gathered by that Speech of *Wolstan* to the Confessors tombe, 'that he had compell'd him to take the pastorall staffe. And *Edward* the 3. wrote to *Clement*

^a Cyp. Epist. 68. n. 4. edit. Pamelii.

^x Epist. 110.

^y Cap. 13.

^{*} turbis. & apud Gratianum, Dist. 63. cap. 6.

^{*} Milevis.

[†] August. Epist. 110.

^a Leo Epist. 89. cap. 5.

^b Caroli Magni Capit. lib. 1. cap. 84. ^c Lib. 2. Epist. 26. Ind. 10. Epist. 22, 26. Ind. 11. ^d alibi.

^d Vide continuat. Flor. Wigorn. Ann. 1128. p. 506. Ann.

1139. pag. 532. * Aileed de miraculis Edwardi, col. 406. 37.

f Epist. Edwards 3. apud Walsingham. pag. 151. 42. Ann. 1343.

the 6. f Cathedralēs ---- Ecclesias progenitores nostri dum singulis vacationibus earundem personis idoneis jure suo regio libere conferebant, & postmodum, ad rogatum & ad instantiam dicta sedis, sub certis modis & conditionibus concesserunt, quod electiones fierent in dictis Ecclesiis per capitula earundem, &c. Solikewise in the Parliament the 50. Ed. 3. the Commons shew, the King and great men were formerly in peaceable possession of giving preferments in holy Church. But I will give the words themselves, because I will not erre in the Translation.

g Rot. Parl. 50. Ed. 3. n. 94.

g Le Roy & les grandes--- feurent en paisible possession de doner les Evsches & les benefices de seint Esglise, come le fest le Roy St. Edward, qe dona l'Evsehe de Worcestre a seint Wolston; & puis par devotion des Roys fust, & par la Courte de Rome conferme, qe les Cathedralx Esglises averoient frank election de lour Prelatz, solonc la ley de Dieu & de seint Esglise, ent ordeigne perpetuellement a daver, &c. and a little h after, Les Roys d'Engleterre soleient doner Evschez & autres grantz dignites trestouz, come il fait aujourdai Esglises parochiels, & le Pape ne se medlast de doner nul benefice deinz le Royalme tanqez deinz brief temps passe, &c.

h Ibid. n. 111.

59. And this to have been likewise the custome in France, the complaint of the French Ambassador to Innocentius 4^{tus} assures us. i Non est multum temporis (saith he) quod Reges Francorum conferebant omnes Episcopatus in camera sua, &c. and our writers do wholly look upon the placing Lanfrank in Canterbury as ^k the Kings act, though it were not ^l without^h advise of Alexander the 2. Neither did ^m Anselme ever make scruple of refusing the Archbishoprick, because he was not chosen by the Monks of Canterbury: and in that letter of them to Paschalis the 2. 1114. though they write Raulf in praesentia gloriosi Regis Henrici electus

i Additament. Mat. Paris MS. in Bibliotheca Cotton. fol. 135. a. cui initium Dicturus, &c. of which hereafter.

k A willielmo Lanfrancus electus est. Malms. fol. 116. b. 38.

Rex constituit

Lanfrancum Archiepiscopum Con. Florent. Wigor. p. 436. Ann. 1070. Sim. Dunelm. col. 202, 6. l Eadmer. p. 6, 41. m Vide ibid. p. 16, 48. p. 17, 18.

à nobis

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a nobis & clero & populo; yet whosoever will note the series of that election, cannot see it to have been other then the Kings act; insomuch as our writers use often no other phrase then the King gave such preferments, &c. And whilst things stood thus, there was never any interposing from *Rome*, no question who was lawfully chosen: the Popes therefore did labour to draw this from the Princes meddling with, as much as was possible. Some essay might be 1108. at the settling Investitures, for then *Anselme P* writ to *Paschalis, Rex ipse in personis eligendis nullatenus propria usitur voluntate, sed religiosorum se penitus committis consilio*. But this, as the practice proved afterwards, was no more but that he would take the advise of his Bishops, or other of the Clergy: for, as *q Diceto* well observes, our King did in such sort follow the Ecclesiastick Canons, as they had a care to conserve their own rights. The fittest way therefore for the Pope to get in was, if there should happen any dissensions amongst themselves, that he, as a moderator, a judge, or an Arbitrator, might step in.

60. About the Conquest, an opportunity was offer'd on the contentions between the two Archbishops for primacy; in which *Canterbury* stood on^r the bulls (true or false) of former Popes, that had as a great Patriarch made honourable mention of them. When they were both 1071. *s* with *Alexander* the 2. by his advise it was referr'd to a determination in *England*; and accordingly 1072. *Wm.* the first with his Bishops made some settlement, which by them of *York* was ever stumbled at, pretending the King's out of reason of State sided with *Canterbury*. But this brake into no publick contest till 1116. *Thurstan* elected to *York*, endeavored at *Rome* to divert the making any profession of subjection to *Cant.* But failing in th' attempt (that Court not liking to fall into a contest it was not probable to carry) resigned his Archbishoprick, *Spondens Regi & Archiepiscopo, se dum viveret*

n Ibid. p. 109, 40. &c.
o Hunt lib. 7. fol. 219, a. 1.

p Apud Eadmer. pag. 93; 42.

q Ann. 1175, col. 587, 21.

r Vide eas apud Malmshamburiensem fol. 118, a. 32. s Lanfranc. Epist. 3. pag. 301.

o Stubbs de Arch. Ebor. col. 1706, 31. n Eadmer. p. 118, 5, 15.

* Eadmer.
p. 120, 50. p.
121, 6.

y Eadmer.
pag. 125.

viveret non reclamaturum : yet after the * Clergy of York sued to the Pope for his restitution, which produced that letter from *Paschalis* the 2. in his behalf to Hen. the 1. is in *Eadmerus* ; wherein he desires, if there were any difference between the two Sees, it might be discusst in his presence. Which was not hearkned to; but *Calixtus* the 2. in a Councell by him held 1119. at *Reimes* (of which before) (the English Bishops not arrived, the Kings Agent protesting against it, the Archdeacon of *Cant.* telling the Pope that *jure* he could not do it) consecrated him Archbishop of York: upon which *Henry* prohibits him all return into his dominions. And in the enterview soon after at *Gisors*, though *Calixtus* earnestly laboured th' admitting him to his See, the King would by no means hearken to it. So the Pope left the businesse as he found it, and *Thurstan* to prove other wayes to gain th' Archbishoprick.

z Sim. Du-
nelm. Ann.
1120. col.
242, 25.
a Eadmer.
pag. 136, 43.

61. Who thereupon became an actor in the peace about that time treated between *England* and *France*: in which his comportments were such, that *promiorem ad sese recipiendum Regis animum inflexit*; so as upon the Popes letters he was afterwards restored, *ad dispositione, ut nullatenus extra provinciam Eboracensem divinum officium celebraret, donec Ecclesia Cantuariensis, &c. satisfaceret*. This I take to be the first matter of Episcopacy that ever the Pope (as having a power elsewhere of altering what had been here settled) did meddle with in *England*. It is true, whilst they were raw in Christianity, he did sometimes recommend Pastors to this Church; so *Vitalian* did *Theodore*: and farther shewed himself solicitous of it, by giving his fatherly instructions to the English Bishops to have a care of it; so did *Formosus* or some other by his letters 904. upon which *Edward* th' elder congregated a Synod, wherein it is 10. 10. and makes *Ann.* 894. n. 11. but at that time *Edward* was not King.

b Beda, lib. 4.
cap. 1.

Note, Malms-
bury fol. 26.
a. 33. says this

was *Ann.* 904. but that agrees not with *Formosus* his Popedom: *Baronius* therefore corrects it to. 10. and makes *Ann.* 894. n. 11. but at that time *Edward* was not King.

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five new Bishops were constituted, by which an inundation of Paganisme ready to break in on the West for want of Pastors was stop't. But it is apparent, this was done not as having dominion over them; for he so left the care of managing the matter to their discretion, as he did no way interesse himself in it farther then advise.

62. A meeting of English Bishops 1107. at *Canterbury*, or (as *Florentius Wigorniensis* files it) a Council restored the Abbot of *Ramsay* deposed 1102. ^c *jussu Apostolico*, or, as *Eadmerus*, ^d *juxta mandatum Domini Papa*. It is manifest, this command from *Rome* to be of the same nature those I mentioned of ^e *Calvins*, or at the most no other then the intercession of the Patriarch of a more noble See, to an inferior, that by his means had been converted: For his restitution (after the reception of the Papall letters) seems to have been a good while defer'd; so that what past at *Rome* did not disannull his deprivation here, till made good in *England*, as at a time when nothing thence was put in execution but by the Regall approbation; as the Pope himself complained to the King. But after the Church of *Rome*, with th' assistance of th' *English* Clergy, had obtained all elections to be by the Chapters of the Cathedrals, upon every Scruple she interposed herself.

63. The greatest part of the Convent of *London* 1136. ^b chose *Anselme* Abbot of *St. Edmundsbury* for their Bishop, contrary to the Deans opinion and some few of the Chanons, who appealed to *Rome*; where th' election 1138 was disannulled, the Bishoprick by the Pope recommended to *Winchester*, his then, or rather soon after, Legat; which so remained till 1141. This is the first example of any Bishop chosen, received and in possession of a Church in this Kingdom, whose election was after *quasi* rat *Rome*, and the sentence obeyed here; as it is likewise of any Command on Papall command in the Church of *England*.

c *Florent. VII. gorn. p. 479.*
d *Eadmer. pag. 92, 14.*
e *supra n. 20.*

f *Hoc per litteras olim mandavrat. Eadmer.*

g *Eadmer. pag. 113. pag. 115.*

h *Diceto col. 506, 507.*

all which seems to have past with the Kings concurrence.

i Vide Iohan.
Hagulfstad.
ab Ann. 1142.
ad Ann. 1152.

. Bernard.
Epist. 106.
234, 235.
237, 238.

64. For to deprive *William* elected somewhat after Archbishop of *York*, where he did not joyn; was not so easy: This man chosen 1142 by the greater part of the Chapter, after five years sate in the Court of *Rome*, . *St. Bernard* opposing him, had in the end his election annull'd by *Eugenius* 3. in a Councell held at *Reims*; the Chanons of *York* exhorted to chuse another; some of which made choice of *Henry Murdock*; then as it seems with the Pope: who coming as Archbishop into *England*, was not suffer'd to enter on his Archbishoprick, and excommunicating *Hugh de Puzat*, a person prefer'd by *William*, was himself by him excommunicated, no intermission of divine service in the City admitted; and *Henry's* means to gain his See was by drawing the Bishop of *Duresme*, *Carlisle*, the King of *Scots*, and, by the Popes advise, this very *Hugh* by sweetnesse to his party, and in the end by the Kings Son (whom it seems he promised to get advanced to the Crown by the power of *Rome*) making his peace with *Stephen*, who soon after employed him thither on that errand. And this I take to be the second *English* election was ever here annull'd by Papall aucthority.

i Iohan.
Hagulfst. col.
276, 3.
i Mar. Paris
Ann. 1207.
pag. 122, 10.
i Diceto col.
307, 53. &
108, 20.
i Mar. Paris
Ann. 1206;
pag. 41, 44.

65. Here I may observe, that at first, when ever the Pope made voyd an election, he did not take upon him to appoint another in the place vacant: but either sent to the Clergy of the same Church to chuse another, as those to whom it appertained; so did *Eugenius* 3. to *York* when this *H. Murdock* was chosen; *Innocentius* 3. when *Stephen Langton*; or else the Bishoprick lay vacant, as *London* after *Anselme* from 1139. to 1141. But elections being with much struggling settled wholly in the Clergy; and *Innocentius* 3. having by definitive sentence excluded the *English* Bishops from having any part in that of th^e Archbishop of *Canterbury*, they be.

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becoming wholly appropriated to the Chapters of Cathedralls, the Pope began to creep in, and ^{n. ex con. n. Falls Gro-} *cessa plenitudine Ecclesiastica potestatis*, as he speaks, ^{gor. 9. apud} without any formality of choice, to confer not ^{Mat. Paris} onely Bishopricks, but other Ecclesiastick promo- ^{Ann. 1229.} tions, within the precincts of others Dioceses, and by ^{pag. 355. 46.} that meansto fill the fatbenefices of the Nation. The first Archbishop of *Canterbury* promoted by this absolute power of the Church of *Rome* seems to have been *Richard* 1229. • *non electo, sed dato ad Archiepiscopa-* ^{o Mat. Paris} ^{pag. 355. 44.} *tum.*

66. The French Agent, in his Remonstrance to ^{p. Additament.} *Innocentius* 4th, attributes the beginning of these colla- ^{Mat. Paris} tions to *Innocent* the 3^d. and I have not read that ei- ^{MS. in Biblio-} ther *Paschalis* the second, *Gelasius*, *Calixtus*, or *In-* ^{theca Cotton.} *nocent* 2. though forced to live sometimes out of *Rome*, ^{fol. 135. col. 1.} did ever exercise auctority that way. But I will give it ^{initium,} in his own words. ^{dicturus} ^{quod injun-} ^{dum est mi-} ^{hi.}

Certe non multum temporis elapsum est, ex quo Dominus Papa Alexander, persecutionis cogente incommodo, venit in Franciam, confugiens ad subsidium inclita recordationis Regis Ludovici patris Regis Philippi; à quo benigne susceptus est, & stetit ibi diu; & forte vivunt aliqui qui viderunt eum: ipse tamen in nullo gravavit Ecclesiam Gallicanam, us nec unam solam prabendam aut aliud beneficium ipse Papa dederit ibi, sed nec aliquis pradeceffor suus, nec multis etiam de successoribus dederunt in sua auctoritate beneficium aliquod, usque ad tempora Domini Innocentii 3. qui primus assumpsit sibi jus istud in tempore suo: Revera dedit multas prabendas, & similiter post ipsum Dominus Honorius & Dominus Gregorius simili modo fecerunt; sed omnes pradeceffores vestri, ut publice dicitur, non dederunt tot beneficia ut vos solus dedistis, &c.

67. In what year th' Ambassador from France made this complaint, is not set down: But ^{q. Mat. Paris} ^{Hist. minor.} ^{Ann. 1252.} ^{pag. 287. fol.} ^{143. b. col. 1.} ^{MS. in Biblio-} ^{theca Regia} ^{Westmonast.} *Mat. Paris* in his

Historia minori makes mention of it as done in or about 1252.

Diebus sub eisdem, Episcopo Lincolnensi computante, imperitum & probatum est quod ista Papa, scilicet Innocentius quartus, plures redditus extortos ad suam contulit voluntatem, quam omnes ejus predecessores; prout manifeste patet in lugubri querimonia quam reposuerunt Franci coram Papa pro suis intolerabilibus oppressionibus, qua redacta est in scriptum Epistola admodum proluxa, qua sic incipit, Dicturus quod injunctum est mihi, &c. quare Epistolam, &c. By which it appears, that great liberty the Papacy took in conferring Ecclesiastick preferments within the Dioceses of others, took its rise from Pope Innocent, and, as it seems to me, not at the very beginning of his time; for 1199. *Gelardus Archidiaconus of St. Davids coming from Rome, quia idem G. Menevensis Ecclesie incuria Romana se dicebat electum, hoc ipsum cassavit Archiepiscopus, & alium sacravit canonice electum; though he after bestowed on him a Church of 25. marks: and this in a case the Pope had so earnestly espoused, as he wrote to the Bishops of Lincoln, Duresme and Ely, si Archiepiscopus Cantuariæ sepe dictum Gilardum consecrare differres, ipsi Apostolica auctoritate frei illum consecrare non differrent: which yet th' Archbishop, as against the English liberty, did not doubt to oppose, and disannul.*

68. But thus it continued not long; for *Honorius*, the immediate successor to *Innocentius*,^{3^{us}} shewing such as served the Apostolick see, and resided with it, were worthy *congruis beneficiis honorari*, and were therefore possess of divers both in England and other parts, which they did administer with so great care, *quod non minus beneficiarius quam beneficiarius utiliter est provisum; unde, quia nonnunquam beneficiis ejusmodi decedentibus, beneficia qua obtinuerant, inconsultis hinc ad quas eorum donatio pertinebat, aliis successu collatis.*

In antiquo MS. Bullarum Romano-rum Pontificum Archiepiscopi Cantuariensis Bullarum, 3.

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collata, perpetua illis ad quos pertinent videbantur amitti, propter quod etiam maxmurabant plurimi, & alise difficultates ad conferendum talibus beneficia exhibebant: Nos volentes super hoc congruum remedium adhibere, ne cuiquam sua liberalitas sit dampnosa, per quam potius meruit gratiam & favorem, statuimus, ut clericis Ecclesia Romanæ, vel aliis Ytalicis, qui prabendas vel Ecclesias, seu alia Ecclesiastica beneficia in Anglia obtinent vel obtinuerint à modo decedentibus, Præbenda vel Ecclesia, seu alia beneficia nequaquam à nobis vel alio illa vice alicui conferantur, sed ad illos libere redeant ad quos illorum donatio dinoscitur pertinere, &c. Dat. Lateran.

∴ quarto Kalend. Martii, Pontificatus nostri anno quinto.

∴ 26. Febr. 1221.

69. Yet neither this, nor the renewing of it by Gregory the 9. with a speciall indulgence directed venerabilibus fratribus universis Archiepiscopis & Episcopis, ac dilectis filiis Abbatibus, & aliis Ecclesiarum Prælati per Angliam constitutis. ut si quando ad vos littera Apostolica pro beneficiandis huiusmodi de cetero emanarunt, ad provisionem ipsorum ibi non teneamur, nisi de hac indulgentia plenam facerint mentionem, Dat. Lateran.

∴ 26. Febr. 1221. e. Ia. eodem MS. Gregor. 9. Bulla 3.

∴ 15. Kalend. Maii, Pontificatus nostri anno 4to, &c. could

∴ April. 17. Ann. 1230.

quiet the English, or keep them from that confederation in May. Paris 1231. beginning, "Tali Episcopo & tali capitulo, Avicularia eorum qui magis volunt mori quam à Romanis confundi, &c. Which the Popes, by wisdom, and joining the Regall auctority with their spiritual, found means to bring to nought, and purging the Papall interest without regarding what had past from them, gave the Kingdome occasion

∴ Mat. Paris. P. 370. 18.

1247. to observe, that in onely three years onely had remained Legat here, he bestowed more than 300. spiritual promotions, ad suam vel Papæ voluntatem; the Pope having contracted (as the report went) with the Romans, to confer none but their Children and Allies the rich benefices here, especially of Religious

∴ Mat. Paris. Ann. 1241. P. 549. 18. 22. &c. Idem Ann. 1240. P. 532. 20. 43.

old

I 3

houses,

houses, (as those perhaps he had most power over) and to that effect had writ to the Bishops of *Canterbury* and *Salisbury*, *ut trecentis Romanis in primis beneficiis vacantibus providerent*. So that in the Councell at *Lions* 1245. they complain of these exorbitances, ^a and shew the revenues the *Italians* received in *England* not to be lesse then 60 thousand marks; of which more ^a hereafter: and in the year following 1246. reiterated their griefs to *Innocentius* ^{4^{cus}}. *quod Italicus Italico succedit*. Which yet was with little successe: for the Popes having (as we have heard) first settled all elections in the Ecclesiasticks, and after upon severall occasions, on the submitting of the *English* to his desires, bestowed the benefices in this and other Kingdomes on his dependents, ^c *John* the 22. (or, as ^d some seem to think, *Clement* the 5. his immediate predecessor) endeavored the breaking of elections by Cathedralls and Convents, reserving the free donation of all preferments to himself alone.

70. From whence proceeded the reiterated complaints against Papall Provisions, in the Parliaments of *Edward* the 3. and *Ric.* the 2. for this Kingdome never received his attempts in that kind: to which purpose the History^e of *John Devenish* is remarkable. The Abbot of *St. Augustines* dying 1346. the 20. *Ed.* 3. the Convent by the Kings leave chose *VVm. Kenington*; but *Clement* the 6. by Provision bestowed the Abbacy on *John Devenish*, whom the King did not approve of, yet came thither armed with Papall auctority. The Prior and Convent upon command absolutely denyed him entrance, *ingressum monasterii in capite denegando*;

^a *Apud Mat.*
Paris p. 667,
36.
a esp. 4. n. 17.

^b *Mat. Paris*
Ann. 1246.
pag 669, 9.

^c *Cardinal.*
Offat. Epist.
296. *dat.*
Rom. 1601.
Decembr. 22.
d Rot. Parl.
3. R. 2. n. 37.

^e *W^m Thorn*
2082, 2. ^o
sequent. vide
Wallingham
Ann. 1374.
pag. 184, 1.
Thorn, Ann.
1373. col.
2187, 57.

See the Hi-
story of Ni-
cholaus de

Spyna resigning the Abby of *St. Augustines*, and on his nominating him, *Thomas Fyndon* prefer'd to be Abbot there by *Martin* the 4. who on the receipt of the Papall Bulls, acquainted *Edward* the 1. with what had pass'd at Rome himself being in England, yet by command of house was striz'd into the Kings hand; and he at the Parliament held at *Acton Burnell* find at 400. marks, pro eo quod sic fuerat creatus in Abbatem, licentia Domini Regis minime petita. *Thorn, Col.* 1939, 1. ^o 1934.

who

who thereupon returned to *Avignon*. The businesse lying two years in agitation, the King in the end, for avoyding expences and other inconveniences, *ex abundanti concessit ut, si idem Iohannes posset obtinere à summo Pontifice quod posset mutare styllum suæ creationis sive provisionis, scilicet non promoveri Abbatia prædicta ratione donationis vel provisionis Apostolica, sed ratione electionis capituli huius loci, illa vice annueret, & suis temporalibus gaudere permitteret: sed quidem huiusmodi causa coram ipso summo Pontifice proposita, concludendo dixit, se malle cedere Pontifici, quam suum decretum taliter revocare, &c.* Which so afflicted the poor man, as the grief killed him on *Ss. Iohn Baptists Eve 1348.* without ever entering the Abby, and the dispute still continuing, the Pope 1349. wrote to the King, *Ne Rex impediret, aut impediri permitteret promotos à curia per bullas acceptare beneficia sibi taliter incumbens.* To which his May answer'd, *Quod Rex bene acceptaret provisiones clericos qui essent bona conditionis, & qui digni essent promoveri, & alios non.*

71. But the year following 1350. the 25. Ed. 3. the Commons meeting in Parliament complain with great resentment of these Papall grants, shewing the Court of Rome had reserved to it self both the collation of Abbeys, Priories, &c. as of late in generall all the dignities of England, and Prebends in Cathedrall Churches, &c. Upon which the statute of Provisors was in that Parliament enacted, which was the leader to those other statutes, 27. and 38. Ed. 3. The 48. Ed. 3. 1374. the treaty between Ed. the 3. and Gregory the XI. was concluded after two years agitation, wherein it was expressly agreed, *quod Papa de casero reservationibus beneficiarum minima interetur, &c.* Notwithstanding which, the Commons the next Parliament presented a petition, shewing all the benefices of England would not suffice the Cardinalls then in being, the Pope having by the

Ex fide varias lectiones ad col. 2117. 54. qua vero ibi debent interferri pertinent ad Hist. de qua hic agitur col. 1082.

Hem Knighton col. 2601. 379. 49.

h Rot. Parl. offay. Purif. 25. Ed. 3. n. 13. See the words of the petition, cap. 4. n. 15.

Walsling. hist. 1374. f. 43. 134. 6. Rot. Parl. 1. R. 2. m. 60. Thorn, 1373. col. 2137. 58. h Rot. Parl. 50. Ed. 3. m. 110. 125. Gregory 22.

addi-

addition of XII. new ones raised the number to xxx. which was usually not above XII. in all; and therefore they desire it may be ordained and proclaimed, that neither the Pope nor Cardinalls have any Procurator or Collector in England, *sur peine de vie & de membre, &c.* Yet the inconveniences still continuing, 3. *Ris. 2.* produced that 4 statute is in the print: I shall not here repeat otherwise, then that the Commons in the Roll, seem to lay the beginning of these excesses no higher then *Clement* the 5.

72. By these arts, degrees and accessions, the Church of Rome grew by little and little to that immenseness of opinion and power it had in our nation; which might in some measure (whilst it was exercised by connivence onely, upon the good correspondency the Papacy held with our Kings and Church,) be tolerated, and the Kingdome at any time by good Lawes redresse the inconveniences it sustained. But that which hath made the disputes never to be ended, the parties not to be reconciled, is an affirmation that *Christ* commanding *Peter* to feed his sheep, did with that give him so absolute a power in the Church, (and derived the like to his successors Bishops of Rome,) as without his assent no particular Church or Kingdome could reform it self: and for that he as a Bishop cannot be denied to have as much power as others from *Christ*, and may therefore in some sense be said to be ¹ *Christ's* Vicar, to appropriate it onely to the Pope, and draw thence a conclusion that *june. divino* he might and did command in all particulars *Vice Christi*. And though no other Church in the Christian World doth agree with the *Roman* in this interpretation; though Historians of unquestioned sincerity have, as we have (in some measure) heard

I Christi vicarii sacerdotes sunt qui vice Christi legatione funguntur in Ecclesia. Eusebius Papa Epist. 3. 10. 1. concil. Blatum à Ematibus Christi Vicariis recipiant, (scilicet in Abbatis:). Hydrotum legem adgere. cap. 15. Concil. Spelm. pag. 440. 28. locus poterit esse tutus, si rabies sancta sanctorum eruentur? & Vicariis Christi, alumnos Ecclesie dilacerat? Epist. W. Semmels, apud Mored, Ann. 1171, fol. 209, b. 32. de morte Thome Archiepiscopi.

in their own ages deliver'd when and how these additions crept in, and by what oppositions gained; that our Princes have, with th' advise of the Lay and Clergy, ever here moderated th' exorbitances of the Papacy in some particular or other, and likewise reformed this Church; though the stipulations between our Kings and Rome have not been perpetuall, but temporary, not absolute, but conditionall, as is to be seen in that past between *Alexander* the 3. and *Hen.* the 2. viz. *"juravit quod ab Alexandro summo Pontifice, & ab Catholicis ejus successoribus non recederet, quamdiu ipsum sicut Regem Catholicum habuerint*; that the *English* Bishops being excommunicated by the Pope might not take an oath of obedience to his commands, *quia regni consuetudines impugnabat*, though he did never exercise any authority here, but according to such stipulations, contracts and agreements with our Princes, as the Lawes permitted; and therefore when he sent hither a Legat *Lateran.*, *∴ he was tetryd with or he cam into the lond, whon he schold have exercise of his power, and how myche schold bee put in execution: An aventure after he hadbee refeyved, he whold have used it to largely, to greet oppression of your peple, &c.* as the Archbishop wrote to *Hen.* 5. as I have shewed numb. 43.

73. Though the Lawyers of the Kingdome do ° constantly affirm, as the Law and Custome of the Realm, the Kings Courts never to have carried regard to any forraign excommunication, and if any such came from Rome, p notto be put in execution, but by allowance first had: to which effect it is remembred, the Bishops of *London* and *Norwich* having publish't in their Diocesesthe Popes excommunication of *Hugh* Earl (as it seems) of *Chester*, without the privity of *Hen.* the 2. or his *Chief Iusticiar*, the Kings writ issued out in this manner; *¶ Londoniensis & Norwicensis Episcopi sint in misericordia Regis, & summoneantur per Vicecomites*

m Gervas.
Dorobern.
col. 1422, 18.
Hoved. fol.
303. a. 1.
Ann. 1172.
¶ Iohan. Sa-
tisbur. Epist.
279. p. 483.

∴ Epist. Hen.
Chichly in
vita ejus, pag.
79.

o Fitz. Ex-
commenge-
ment, 4, 6, 10.

p Vide Ho-
veden. fol.
284. b. 23.

q Ex antiquo
MS.

r^oram. Hoveden.

f pag. 103, 43.

i Girolamo
Catena vita di
Pio 5^{to}. pag.
96, 97, 98.
100. in 8^{vo}.

Roma 1587.

e^o Adriani

Hist. lib. 19.

pag. 1378. A.

u Ger. Doro-

bern. col.

1422, 50.

x pag. 6.

y 2. H. 4. Ac-

c^oion sur le case.

25. Fitz.

* 31. Ed. 3.

Excommen-

gement. 6.

z Froissard.

10. 1. cap. 47.

pag. 58. Gall.

* Benedic^{us}

xii. Iacobus

Meierus An-

nal. Flandr.

Ann. I: 40.

fol. 141, 2.

& Bedellos, ut sint ² contra Iustitias Regis, ad rectum faciendum Regi & Iustitiis ejus de eo quod, contra statuta de Clarendone, interdixerunt ex mandato Pape terram comitis Hugonis, & excommunicationem quam Dominus Papa in ipsum fecerat per suas parochias divulgaverunt sine licentia regis. This however contracted in Hoveden 1165. and in Paris 1164. yet the difference is such as may deserve a remembrance. It seems to me, what our Kings claimed, not to be altogether unlike the ^t Exequatur of Naples, observed to this day in that Kingdome, notwithstanding all contests from Rome.

74. Neither did the Crown ever relinquish this right, not at the peace after Beckers death, when ^h Henry the 2. assented to quit no other then *Consuetudines quæ introductæ sunt tempore suo*; which it is manifest this was not, as appears by ^x Eadmerus. It is farther observable, that by the common Laws (that is ^y the common Custome of this Realm) the ^z sentence of the Archbishop is valid in England, and to be allowed in the Kings Courts, though controuled by the Pope: and to shew our Princes had no regard to anything of this nature from thence, other then such a complying with a reverend Prelat as I have formerly mentioned did admit, it may not here be unfitly inserted what ^z Froissard writes of Edward the third, with whom the Flemings joyned against the French; upon which, (but I shall deliver it in his own words) *Adonc le Roy de France s'en plaignoit au Pape Clement sixieme, qui getta une sentence d'excommuniement si horrible, qu'il n'estoit nul prestre qui alast celebrer le divin service: De quoy les Flamens envoyèrent grande complainte au Roy d'Engleterre; lequel pour les appaiser, leur manda, que la premiere fois qu'il rappasseroit la mer, il leur ammeneroit des Prestres de son pais qui leur chanteroient la Messe, vousist le Pape ou non car il estoit bien privilegié de ce faire: & par ce moyen s'appaiserent les Flamens, &c.* As for the priviledge here spoken.

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spoken of, that can be no other then the obligation all Kings owe unto God, for seeing his word sincerely taught them live under their protection, without the disturbance of any.

75. In which kind ours have been so far from yielding obedience to the Papall attempts, as *Edward* the first could not be induced to spare the life of one brought a Bull from the Pope, might have made some disturbance, but by his abjuring the Realm; as his grand-child *Edward* the 3. did ^b cause some to suffer for the same offence. And on occasions our Kings have prohibited all entercourse with *Rome*; ^c denied their Bishops going thither so much as for confirmation, but the Metropolitans, if need were, should by the Kings writ be charged to confirm them; ^d commanded their subjects not to rely on any should come from thence, affirming, *quod in regnum nostrum nec propter negotium nostrum nec vestrum ullatenus intrabit ad terram nostram destruendam*. Yet notwithstanding so notorious a truth, back't with so many circumstances, grounded upon unquestioned monuments of antiquity, hath not been received; but the bare affirmation, *Christ* by *pasce oves meas* intended *Peter*, and by consequence the Pope, to be the generall Pastor of the world, and the meaning of those words to be, that he should ^e *regio more imperare*, hath so far prevailed with some, as to esteem the standing for the rights of the Kingdome, the Laws and Customes of the Nation, to be a departing from the Church Catholick; and to esteem no lesse then Hereticks those, who defending that which is their own from th' invasion of another, will not suffer themselves to be led hood-winkt, to think the preservation of their proper liberty is a leaving *Christ*, his Church, or the Catholick faith.

76. I dare boldly say, whoever will without partiality look back, shall find the reverence yielded from this

a *Affise lib.*
30. placit. 19.

b *Walsing-*
ham Hist.
Ann. 1358.

pag. 165/48.

c *Vide Ho-*
ved. fol 284.
b. 13.

Rot. Parl. 16.

March, 3. H. 5.

n. 11. See the

9. H. 4. n. 37.

d *Gervas. Do-*

robert. col.

1552, 51.

e *Bellarmin.*

Recognit. pag.

21. Edit. Im-

golsta. 1608.

f Tacit. de
moribus Ger-
manorum. Vide
Lanfranci E-
pist. 8. p. 305.

g Bedalib. 4.
cap. 17.
h Malsbur.
fol. 150. &c.
i Vide Ead-
mer. pag. 62,
36. Lanfranci
Epist. 20. pag.
311:

k Florent.
Wigorn.
Ann. 1070.
pag. 435. &
436. Sim. Du-
nelm. col. 29.
l Baron. 10.
11. Anno
1071. n. 11.

Church to *Rome* for more then a thousand years after *Christ*, to have been no other then the respect of love, not of duty, and Popes rather to *consulere* then *impe- rare*; their dictats to have been of the same nature: the German Princes were of old, *auctoritate suadendi magis quam jubendi potestate*, never requiring a necessity of obedience *eo nomine* that they came from *Rome*, but for that they were just and reasonable: neither did the Pope send any Agent hither to see them put in execution; but th' Archbishop, according to the exigent of times, receiving his wholesome advises, caused such as he held of them did conduce to the good of the *English* Church to be observed. So *Theodore* & received those of Pope *Martin*, but *h* did not them concerning *Wilfred*, from *Agatho*. When *Alexander* the 2. had exempted the i Abbot of *St. Edmunds-bury* from the jurisdiction of the Bishop of *Norwich*, *Lanfrank* took the Act from the Abbot: and *Gregory* the 7. is so far from using commands in the cause, as he onely earnestly intreats the Archbishop he would stop the Bishop of *Norwich* from molesting the said Abbot; yet himself as it seems did not restore the Bull of immunity to him during that Popes life. (but of this before.) In the year 1070. on the Kings desire in a Councell at *Windsor*, k *Agelricus* Bishop of the *South-Saxons* is degraded, and his Bishoprick confer'd on *Stigandus*: *Alexander* the 2. not approving what had past, l writes to the King, this cause seemed to him *non ad plenum tractata*, *ideoque sicut in canonibus cautum est*, *in pristinum locum debere restitui judicavi- mus*; Deinde, *causam ejus*, *juxta censuram canonica traditionis diligenter retractandam & definiendam*, *prae- dicto fratri nostro Archiepiscopo Lanfranco commissimus*. It is certain (however some writers might upon this or for other causes think his degradation to have been *non ca- nonice*) those times did not interpret this (though writ with so great earnestnesse) for other then advise or in- tercession,

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tercession, not as of a person had an absolute power of commanding in the businesse; for we never read of any proceedings upon it, not *Lanfrank* at all ever to meddle in the case, that he ever esteemed *m Stigand* a lawfull Bishop *Epist.* 27, 28. who in the year 1075. being in a Councell at *London*, according to the Decrees of it, removed his Episcopall Chair from *Selfey* to *Chichester*, of which he died Bishop 1087. without being at all, for what appears, questioned or disturbed after the first grant of it. Divers examples of the like nature occur too long to be repeated, where the King or his chief Iustice prohibit the Papall precepts from being put in execution: and it is agreed by Lawyers, that not the command, but the constant obedience, is it which denotes a right of commanding; and in cases of this nature *prohibentis potior est conditio*, one example in the negative, when the thing is stood upon, being of more weight then twenty by compliance in the affirmative.

77. It is probable, neither the King nor the Bishops would introduce any new matter of great concernment into this Church, without the privity of so great a Doctor, Patriarch of a See, from which their auncestors had received the first principles of *Christian* Religion; but it is manifest, what past, (if he were acquainted with it) was by their own auctority, not his. When *Offa* intended the erecting of *Litchfield* into an Archbishoprick, he did it by a Councell at *Calcuith*: *Lambertus* (as what he approved not) producing *q crebra sedis Apostolica & vetera & nova edicta* against it, yet the thing proceeded. *Lucius* the 2. went so far in his intentions to raise *Winchester* to an Archiepiscopall Chair, as he sent the pall to the Bishop: yet it being not approved here (as the event shews) that Town never yet had the honour. *Henry* the first having in his Lawes appointed how a Bishop, *Presbyter*, *Monk*, *Deacon*, &c. should suffer, committing homicide, concludes, *Si quis ordinatum occi-*

K 3

dat,

m Lanfranci Epist. 27, 28. & apud Eadmer. pag. 13. n Malms. de pontif. lib. 1. fol. 121. b. 27. Vita Lanfranci cap. 12. pag. 13. C. col. 1. o Florent. Wigorn. Ann. 1077. pag. 449. p Vide Gerwas. Dorobern. Ann. 1087. col. 1503, 38.

q Malms. de regibus lib. 1. fol. 15. b. 34. . Diceto Ann. 1142. Mat. West.

r Leg. Hen. 1. cap. 73. pag. 204, 29.

dat, vel proximum suum, exeat de patria sua, & Romam adeat, & Papam, & consilium ejus faciat; de adulterio, vel fornicatione, vel Nunnæ concubitu similiter pœniteat.

* Legendum
Nunnæ cum
MS. Lon-
don. Seld. &
nostro, non
nimio, ut MS.
Schachar.

† Leg. Hen. 1.
cap. 31. p. 187.
29.

u Ibid. cap. 5.
pag. 173, 28.

Where it is observable, the King ordains the Penance, permits the delinquents peregrination to *Rome*, to receive from the Pope (as from a great Doctor of the Church) spirituall counsell, which else he was not admitted to seek; for *peregrina judicia modis omnibus submovemus*; and again, *ibi semper causa agatur, ubi crimen admittitur.*

α Ingulph.
fol. 522. a. 6.

γ Eadmer.
Pg. 29, 23.

z Rot. Parl.
18. Ed. 3.
m. 23. 24. pet.
1. du Clergie.

α Walling.
Hist. Ann.
1344. p. 155,
1.

78. *William* the first (who began his expedition against *Harald* by the counsell of *Alexander* the 2. and received a * banner from him) minding the deposition of th' Archbishop of *Canterbury*, procured the Pope to send certain Ecclesiasticks hither to joyn in the action, as likewise soon after for determining the question of precedency between *Canterbury* and *York*; upon which there grew an opinion, *Archiepiscopum Cantuariensem à nullo hominum, nisi à solo Papa, judicari posse vel damnari, nec ab aliquo cogi pro quavis calumnia cuiquam, eo excepto, contra suum velle respondere.* This no doubt was promoted by th' Archbishops, as what exempted them from all home jurisdiction, the Bishops in generall did after think in some sort to introduce; and thereupon put in this petition in Parliament * 18. Ed. 3. *que pleise a Roy, en maintenance del estat de seint Esglise, graunter & ordeiner en cest Parlement, que nul Ercevesque ou Evesque soit desormez, arreynez, ne empeschez devauns ses Iustices, en cause criminele, par quecunque voye, de si come sur tiele cause nulle alme ne les poet juger, si noun le Pape seulement.* But to this the answer is no other then, *Il est avis, que en cause de crime, nul Ercevesque ou Evesque soit empesche devant les Iustices, si le Roy ne le commande especialment tant que autre remede soit ordeinez:* which he did likewise confirm by Charter there registred, and as *Walsingham* hath truly recorded.

79. This

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79. This opinion, though ^b new to the English, questionlesse encouraged *Anselme* to oppose the King in many particulars, and Popes to go farther; as to claim Princes should not confer Investitures, nor define matters of Episcopacy, &c. then to bestow preferments within this Kingdome, at first by consent, and with the limitation no *Italian* to succeed another, then to reserve to themselves the collation of all benefices; of which before. To conclude this; whosoever will without prejudice weigh the reformation of *England* by *Hen.* the 8. *Edward* the 6. and more especially *Queen Elizabeth* in the point of supremacy, must grant these Princes did not assume to themselves any thing, but such particulars as the Court of *Rome* had in a long series of time incroached in on the Crown and *English* Church. If at any time our auncestors styled the Pope *Princeps Episcoporum*, it was in no other sense then they did *St. Peter Princeps Apostolorum*; by which what principality they intended him, we cannot better understand then by the Saxon, who renders it *Galþon Ðana Apostola*, the Elder of the Apostles. If they called him *successor* or *Vicarius Petri*, they were not alone appropriated to him, for *d Petrus Blesensis* and others give the Bishop of *York* the same titles; and the Bishop of *Bath*, who had a Church dedicated to *St. Peter*, he bids remember *quia Petri Vicarius estis*. So did they likewise in some sense call Kings *Christi Vicars*, as well as Bishops. If at any time they gave the Pope the title of *Head* of the Church, it was, as being the first Bishop, he was held to be, as *St. Bernard* tells us, & *in beneficam causam*; as they ^b termed *Oxford* the fountain and mother of our *Christian faith*. I cannot therefore but wish a ^c late wri-

^b Proinus intellexerunt quod prius non animadvertebant. Eadmer. p. 29, 21.

^c Beda Latin-Saxon edit. 1644. lib. 2. cap. 6 p. 123. lib. 4. cap. 18. p. 301. & a. libi. d. Epist. 113. 143. Vide Stubbs de Archiepisc. Exbor. in Al-dredo col. 1703. 37. 1704. 13. vide supr. c. 2. n. 72.

^e Leg. Edwardi Confessoris. cap. 17. Sel-

deni. Nota ad Eadmer. p. 155, 12. &c. f. Rot. Parl. at Glocest. n. 78. in monnullis libris impressis cap. 6. & 7. g. Bernard. de consideratione lib. 3. cap. 3. h. Rot. Parl. 1. Hen. 6. n. 43. * Philip Scot his treatise of Schisme, p. 165.

ters.

.. I will not undertake to maintain that the Pope is Antichrist, professing my weaknes & ignorance of those prophetically Scriptures to be so great, that I dare not be confident in my interpretations of them. *Faxter his Christian concords Explication. p. 69.*
 .. Diceto *Ann. 607. & 608. col. 437. 23.*
i Antiquit. Britan. Eccles. pag. 384, 37. edit. London. 1573.
k Ger. Doro-bern col. 163, 24. col. 1615, 60, 63.
l Epist. Radulph. Archiepisc. Calixio 2. col. 1736. 1.

ter, that sayes *England had a known subjection to Rome acknowledged even by our Laws, ever from the conversion of our Country under St. Gregory*, had expressed in what particulars that subjection did consist, what those Laws are, and where to be found. The truth is, as there is no doubt our Auncestors in former times would not have joyned with the Synod of *Gap*, in causing so .^d. disputable ambiguous a question as that the Pope is *Antichrist* to have been taught as the faith of the *English Church*; so there is no question, but it hath been ever the *Tenet* of it, *Pontificem Romanum majorem aliquam jurisdictionem non habere sibi à Deo collatam in Sacra Scripturâ in hoc regno Angliæ, quam alium quemvis externum Episcopum*: which our .^d. Historians do mention as what proceeded from the constitutions of the Church and assent of Emperors, not as of a thing in it self *juris divini*: insomuch as,

80. That proposition, ⁱ when it was propounded 1534. in *Henry* the 8ths time in convocation, all the Bishops without exception, (and of others onely one doubted, and four placed all Ecclesiastick power in the Pope,) both the Universities, and most of the Monasteries and Collegiat Churches of *England*, approved & avowed as the undoubted opinion of the Church of this Nation in all ages. Neither can I see how it can be otherwise: for if the Church of *Canterbury* ^k were *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*, if it were *Mater omnium Anglicanarum Ecclesiarum, & suo post Deum proprio latatur pastore*; that is, if th' Archbishop had no mediate spirituall superior but *Christ & God*; if the power the Pope exercised over him within this Realm were ^l *voluntate & beneficio*, gained, as I have shewed, by little & little, voluntarily submitted unto; it could be no other then *jure humano*: and then it must be granted, the Church of *England* could not hold any necessity of being in subjection to the See or Church

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Church of *Rome jure divino*; as it is manifest they did not, in that they sometimes acknowledged no Pope, * otherwhiles shewed an intent of departing from his union, and the Bishops as well as Lay Lords advised *Anselm*, * *Vrbani obedientiam abijcere, subjectionis jugum excutere*, &c. Neither could the Church of England be any way possible guilty of Schism, adhering to their Ghostly Superior next and immediate under *Christ Iesus*.

As for the temporall profits the Court of *Rome* received hence, though the denying them can be no just cause of such a spirituall imputation, especially on privat men; yet certainly who will examin their beginning, as he shall find it to have been by the bounty or permission of our Princes, so upon search he will perceive the Kingdome went no farther then the Common Law, the precedent of former times, and such an exigency did force them to: of which therefore I shall adde a word or two.


in Eadmer.
pag. 25, 40.
in Mar. Paris,
Ann. 1163.
pag. 107, 45.
pag. 111, 24.
Vide Epist.
Gilberti Londonensis Episc.
apud Hoveden. fol. 288,
34, 38. Ann.
1166.
in Eadmer.
p. 28, 33.

L

CHAP.

C H A P. IV.

Of the Payments to the Papacy
from England.

1.  Hevaſt ſummes the Court of *Rome* did of late years upon ſeverall occaſions export out of this Kingdome, mentioned in the a ſtatute of the 25. *Hen.* the 8. are ſpoken of by ſeverall of our writers: and though ſome^b have in generall expreſſed how much the Nation ſuffer'd in that kind; yet none, that I know, in one tract did ever ſhew by what degrees the Papacy gained ſo great a revenue, as the Commons in *Edward* the thirds dayes had cauſe to complain, it did turn^c *a plus grand deſtruction du Royaume de toute la guerre noſtre Seigneur le Roy.* I have thought therefore that it will not be amiſſe to ſet down, how the Pope came to have ſo great an influence over the treaſure of the Clergy in this Land, by ſeeking out how and when the greateſt of the paiments made to him began, what interruptions or oppoſitions were met with, either at the beginning or in the continuance of them.

2. The firſt payment, that I have read of, which gave the Pope an entrance as it were in to it, was that bounty of our Princes known to this day by the name of *Peter-Pence*: and this as it was given for an^d *Almes* by our Kings, ſo was it no otherwiſe received by the Court of *Rome*; *e Eleemoſyna beati Petri, prout audivimus, ita perperam doloſque collecta eſt, ut neque mediam ejus partem haſtenus Eccleſia Romana ſuſceperit,* ſaith *Paschalis* the 2. So that no queſtion^f *Polidore Virgil* very inconfiderately termes it *veſtigial*, and others, who by that gift contend the Kingdome became *tributarium feudarium* *S^{to}. Petro ejusque ſucceſſoribus*: for though the word *tributum* may perhaps be met with in elder^b writers,

a 25. *Hen.* 8.

cap. 21.

b *Apud Mat.**Paris Epiſt.**univerſitat.**Anglic.* Anno

1245. p. 667.

38.

c *Roi. Parl.**ſtat. Purific.*

25. Ed. 3.

n. 13. of which

hereafter n. 15.

d *Vide Epiſt.**W^m. I. apud**Baron.* 20. 11.*Ann.* 1079. &*inter Lan-**franci Epiſt.* 7.e *Epiſt. Hen-**rico* 1. apud*Eadmer.*

pag. 113. 27.

f *Hiſt. lib.* 4.

p. 89. 40. 43.

g *Nota in**Lanfranci E-**piſt.* 7. p. 347.

col. 2. d.

h *Malmſbur.*

fol. 128. b. 25.

ters, yet never did any understand the Pope by it to become a Superior Lord of the Lay see, but used the word metaphorically; as we do to this day terme a constant rent a kind of *tribute*, and to those who pay it, and over whom we have in some sort a command, we give the title of subjects; not as being Princes over them, but in that particular being under us, they are for it styled our inferiors.

3. What Saxon King first conferred them, whether *Ina*, as ⁱ *Ranulphus Cestrensis* sayes report carryed, or *Offa*, as ^k *Iorvalensis*, I will not here enquire, as not greatly materiall. ^l *Polidore Virgil* tells, some write *Ethelwolphus* continued it: with whom *Brompton* seems to concur. It is true, our Historians remember he caused ^m 300. *manchas denariorum* (ⁿ *Malmsbury* renders it *trecentas auri marcas* (which was ten times the value of silver) as ^o another *trecenta talenta*) to be carried every year from hence to *Rome*; which could be no other then the just application of *Peter-Pence*: for amongst sundry complaints long after from *Rome*, we find the omission of no payment instanced in, but of that duty onely; neither do the body of the Kingdome in their ^p Remonstrance to *Innocentius* 4. 1246. mention any other as due from hence to *Rome*.

4. This therefore thus confer'd by our Kings, was for the generality continued to the Papacy; yet (to shew, as it were, that it proceeded only from the liberality of our Princes,) not without some stops. Of those in the times of *William* the first & *Henry* his Son I have ^r spoke. *Henry* the 2. during the dispute with *Becket* and *Alexander* the 3. commanded the Sheriffs through *England*, that *Denarii beati Petri colligantur, & serventur, quousque inde Dominus Rex voluntatem suam praeceperit*. During the Reign of *Edward* the 3. the Popes abiding at *Avignon*, many of them *French*, their partiality to that side, and the many Victories obtained by th' English be-

ⁱ Polychronic.
lib. 5. cap. 24.
^{See} Brompton
col. 802, 23.
^k Col. 776, 37.
^l Lib. 4. p. 89.
44.
^m Florent.
Wigorn.
Ann. 855.
^p 300. ^o
Sim. Du-
nelm.
ⁿ De Regibus
lib. 2. cap. 2.
fol. 22. a. 27.
^o Iorvalensis
col. 802, 27.
^p This ap-
pears by the
Epistle of Wil-
liam the 1. 10
Paschalis
the 2. before
cited, and so to
Henry the 1.
^q Apud Mar.
Paris p. 698, 6
51.
^r Cap. 3. n. 11.
cap. 4. n. 2.
^s Apud Mar.
Paris Anno
1164. p. 103,
45. ^o Ho-
veden Anna
1165, fo. 284.
b. 26.

u Hen.
Knighton
col. 2015, 41.
x Caxton.
Continuat.
Polychronic.
cap. 2. Stow
Ann. 1365.
y Hen.
Knighton col.
2664, 66, &
2644, 31.
z In fasciculo
quingentorum
MS. in li-
braria Arma-
chani, fol. 59,
b. col. 2.

gat the proverb, *« Ore est le Pape devenu François, & Jesu devenu Anglois, &c.* about which time our Historians observe, the King gave command *« no Peter-Pence should be gather'd or pay'd to Rome.* And this restraint, it seems, continued all that Princes time; for *Richard* the 2. his successor at his beginning caused *John Wickliffe*, esteemed the most & knowing man of those times, to consider the right of stopping them; whose determination in that particular yet remains, entituled *« Responsio Magistri Iohannis Wicliff ad dubium inscriptum, quæsitum ab eo per Dominum Regem Angliæ Richardum secundum & magnum Concilium, anno regni sui primo*: then the question followes, *Dubium est, utrum regnum Angliæ possit legitime, imminente necessitate sua defensionis, thesaurum Regni detinere, ne deferatur ad externos, etiam Domino Papa sub pæna censurarum & virtute obedientia hoc petente; & relicto viris peritis quid dici debet in ista materia. secundum jus canonicum, secundum jus Angliæ vel civile solum restat suadere partem affirmativam dubii, secundum principia legis Christi*: then shews, those payments being no other then Almes, the Kingdome was not obliged to continue them longer then stood with its own convenience, and not to its detriment or ruine; agreeing therein with that of Divines, *extra casus necessitatis & superfluitatis Eleemosyna non est in precepto.*

5. But in the Parliament held the same year, the question was concluded: for there this petition being prefer'd, *« que y puisse estre declaree en cest present Parlement, si la charge de la denir Saint Pierre, appelle Rome peny, sera levee des dires Comtes, & paye al Collector nostre Seint Pere le Pape ou noun*; the answer was, *soit fait come devant ad este usee*: By which the use of them being again returned, did so remain till *Henry* the 8th. time. For though in a^b counsell held at *London* 1408, it was treated *de censu & obedientia Papa subtrahendis vel non subtrahendis*,

a Rot. Parl.
1 Ric. 2. n. 84.

b Walsing.
Hist. Anno
1408. p. 420,
2.

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hendis; yet that it past farther then words I have not observed. But King ^e Henry 153⁴ took them so absolutely away, as though Queen *Mary* repealed that Act, and *Paulus Quartus* dealt earnestly with her ^d Agents in Rome for restoring the use of them; yet I cannot find they were ever gather'd, and sent thither during her time: but where some Monasteries did answer them to the Pope, and did therefore collect the tax, that in proceſſe of time became as by custome pay'd to that house; which being after derived to the Crown, and from thence by grant to others, with as ample profits as the Religious persons did possesse them, I conceive they are to this day pay'd as an appendant to the said Mannors, by the name of *Smoak-mony*.

c 25. Hen. 8.
cap. 21.

d Hist. Concil.
Trident. lib. 5.

6. Before I passe from this, one thing is not to be omitted: that however the Pope had this as a due, and for that end his Collector did abide in *England*; yet he might not raise the auncient accustomed proportion of the *Taxe*, nor in any kind alter the manner of taking it: for when *Rigandus* from the Pope endeavored that, he was streightly prohibited by *Edward* the 2. The ^e Act it self is printed.

e Fox Acts
Monuments
in Edw. 2.

As for the value these *Peter-Pence* did amoutnt to, I have seen in an old *MS.* belonging to the Church of *Chichester*, a Bull said to be of ^e *Gregory* 5th that did proportion them after this manner.

f Vide Concil.
Spelm. p. 313.

Episcop.

Episcop.

	l.	s.	d.		l.	s.	d.
<i>Caust.</i> — —	07	18	00	<i>Exoniensis</i> — —	09	05	00
<i>London.</i> — —	10	10	00	<i>Wigorniensis</i> —	10	05	00
<i>Roffensis</i> — —	05	10	00	<i>Herefordens.</i> —	06	00	00
<i>Norwicensis</i> —	21	00	00	<i>Bathon.</i> — —	12	00	00
<i>Eliensis</i> — —	05	00	00	<i>Sarisbur.</i> — —	17	00	00
<i>Lincolniensis</i> —	42	00	00	<i>Coventrensis</i> —	10	00	00
<i>Ciceſtrenſis</i> —	08	00	00	<i>Eborac.</i> — —	11	10	00
<i>Winton.</i> — —	17	06	08				

Dat. apud *Vrbem Veterem* x. Kalend. *Maii*, Pontificatus nostri anno secundo.

L. 3.

But.

g Florent.
Wigorn.
Ann. 1109.
p. 482. & alii.
h Remigius
circum Ann.
1080. trans-
tulit sedem
Episcopalem
de Dorcestre
Lincoln. &
Herebertus
circa 1086. de
Thetfordia,
Norwich.
Malmbsbur. de
Pont.
i cap. 3. n. 50.
k Vita Abbat.
p. 140, 27.
Hist. major.
pag. 414, 26.
l Ann. 1191.
col. 663. 6.

m Mat. Paris
Ann. 1226.
pag. 328, 13.
n Ordexicus
Vitalis pag.
346. c.

o Mat. Paris
Additament.
MS. ubi su-
pra, cap. 3.
n. 66.

But this could not be the Bull of Gregory the 5. who dyed about 997. before ^a Ely was erected, or Episcopall chaires placed in ^b Lincoln or Norwich.

7. The last article in the oath prescribed the Clergy from the Pope, of obedience to him, was, not any way to alienate the possessions of their houses *inconsulto Romano Pontifice*. Whether this clause were inserted when 1115, it was first required of ⁱ Raulf th' Archbishop of Cant. I have not been able to certify my self; and am apt to believe it was not: for though we find it in ^k Math. Paris, when it was first imposed on Abbots and Bishops, yet that was after the Court of Rome had tasted the sweetnesse of taxing other Churches; neither is it in any of those conditions mentioned by ^l Diceto. But when ever it came in, it implying a right of alienating the possessions of Religious houses and Churches, with the Papall licence, bred an opinion, that without his assent there could be no good sale made of their estates, by any temporall or spirituall power whatsoever, though with their own concurrence: and the Court of Rome grew to maintain, ^m That being a Mother, she ought to be relieved by her Children. ⁿ Gelasius the second in his distresse 1118, is said to have desired ^a Normannica Ecclesia subsidium orationum, & magis pecuniarum: yet certainly the Norman Church did not then at all condescend to any; for the French Agent in the ^o *Lugubri querimonia* (of which before) mentions him amongst divers others who, expelled ^d Italy, fled into France for succour, yet, *non in aliquo gravaverunt Ecclesiam Gallicanam, nec dando beneficia, nec petendo subsidium pecunia vel armorum, sed spiritualibus armis, scilicet lacrymis & orationibus, quae sunt arma ministrorum Christi, maluerunt esse contenti, &c.* So that certainly if any collection were made for Gelasius, it was so private, publick notice was not taken of it.

8. The first extraordinary contribution raised by allowance

allowance for the Popes use in this Kingdome, I take not to have been before 1183. when *Lucius* 3^{us}. at odds with the Citizens of *Rome*, not any ways able to resist their fury, sent to *Henry* the 2. *postulans ab eo & à clericatu Angliæ auxilium*. The thing was taken into consideration, and for the precedent, it was not thought fit any thing should be given as from the Clergy, but that they might raise a supply amongst themselves for the King, without permitting a forraign Agent to intermeddle; and his Majesty might with that relieve the Pope as he should see occasion. But take in the Historian his own words. *p* *Consuluit Rex Episcopos suos & clericum Angliæ de petitione summi Pontificis: cui Episcopi & Clerus consuluerunt, ut ipse secundum voluntatem suam & honorem faceret auxilium Domino Papa, tam pro se quam illis; quia tolerabilius esset, & plus placeret eis, quod Dominus Rex, si vellet, accepisset ab eis recompensationem auxilii illius, quam si permisisset nuncios Domini Papa in Angliam venire, ad capiendum de iis auxilium; quia si aliter fieret, posset verti in consuetudinem, ad detrimentum regni. Adque Rex consilio eorum, & fecit auxilium magnum Domino Papa in auro & argento.* The judicious reader may observe hence things very remarkable: as, that the King did in points concerned the Pope consult with the English Church, and followed their advise; the great care the Clergy took to avoid any sinister consequence in future, and therefore did themselves give to the Prince, as to whom it was due from them, and not to the Pope, who by custome might come to claim it: as indeed he did after step so far, as to prohibit their giving the King at all, without *q* his license, endeavouring the gaining a supremacy over them as well in Temporalls as Spiritualls, who hitherto had not meddled with Collections of that nature.

For the *r*. same *Henry*, about 17 years before, (after the example of the *French*) did cause a supply be made for

p Hoveden
Ann. 1183.
fol. 354. b. 43.

q De immuni-
tate Ecclesie
in Sexto cap. 3.
vid. Knighton
col. 2489.
37.
r Gervas.
Doroborn.
Ann. 1166.
col. 1399. 7.

for the relief of the Eastern Church ; but I do not find it to have been either upon any motion from *Rome*, or any part of what was so levyed to have been converted that way.

9. But the former granted 1183. passing with so great circumspection, perswaded the Popes not to think fit sodainly (as it seems) of attempting the like; yet that the Church of *England* might not be unaccustomed to paiments, they sometimes exhorted Christians to the subvention of the *Holy Land*, and thereupon did distribute Spirituall Indulgences (which cost them not a farthing) and procured Princes to impose on their Subjects for that end: so did *S Clement* the 3. or rather *Gregory* the 8th. about 1187. stir up *Hen.* the 2. and *Philip Augustus*, ¹ *Innocentius* 3. King *John*: and, as a generall Superintendent over the Clergy, did then intronit himself and his Agents in the raising of it, and so did convert some good proportion to his own use; inso-much as *Iohannes Ferentinus*, sent hither 1206. from the same *Innocentius* 3^{us}, ^u carryed hence a good quantity; upon which King *John* writ unto the Pope 1207. ** quod uberiores sibi fructus provenientes de regno Anglia, quam de omnibus regionibus citra Alpes constitutis, &c.* Yet truly, to raise any considerable summe of money from the whole body of the Clergy, for support of the Papall designs, I do not find any great attempt before *Gregory* the 11. 1229. ^o demanded a tenth of the moveables, of both Lay and Ecclesiasticks: to which the Temporall Lords would not at all assent, *Nolentes Baronias vel laicas possessiones Romana Ecclesia obligare*; and the Clergy were unwillingly induced to the contribution. The Pope thus entred, meddled no more with the Lay, but of ³ the Clergy eleven years after he demanded by his Legat a *fifth* part of their goods. Many meetings were had about it: ² they shewed the King, they held their Baronies of him, and could not without his assent charge

f Newbri-
genus lib. 3.
cap. 21, 22, 23,
c. c. Hoved.
Ann. 1187.
fol. 363. b. c.
sequenti-
bus.
Ger. Doro-
bern. c. 1522.
11.
1 Mat. Paris
Ann. 1201.
pag. 105, 54.
Ann. 1202.
pag. 203. 12.
2 Mat. Paris
Ann. 1206.
pag. 214, 33.
3 Mat. Paris
p. 224, 25.
4 Mat. Paris
pag. 361, 2,
49. pag. 362,
9.

3 Mat. Paris
Ann. 1240.
pag. 526, 20.
2 Pag. 534, 8,
39.

charge them; that having formerly given a tenth, this of a fifth might create a custome: and at a meeting in *Barkshire* exhibited sundry solid reasons (too long to be here repeated) against the contribution. But nothing would serve; the King made for it, and th' Archbishop out of private ends paying it, they were in the end forced to yield such a supply, as at his departure the year following it was say'd, ^b there did not remain so much treasure in the Kingdome, as he had in three years extorted from it (the vessels and ornaments of Churches excepted.)

^b Mat. Paris
Ann. 1241.
pag. 549, 21.

10. But neither the paying it with so great reluctance, nor the ^c Remonstrance prefer'd in the Councell of *Lions* 1245. from the body of the Kingdome, of the severall exactions the Nation lay under from *Rome*, and likewise ^d to the Pope himself the year following, could any way stop the proceedings; but *Innocentius* 4th. 1246, ^e invented a new way, to charge every Religious house with finding and paying a quantity of souldiers for his service in the wars for one year: which being required from both the *English* and *French*, produced here those prohibitions in the same Author against raising any *Tallagium* or *auxilium*. But the French caused their Agent to use a serious expostulation in the businesse; which, because it is not printed, I shall deliver at large as I find it. *Nuncios de novo accesserunt, nova gravamina addentes*

^c Apud Mat.
Paris p. 666,
51.

^d Apud Mat.
Paris Anno
1246, p. 698,
40, 51, &c.

^e Ibid. pag.
701, 56.
pag. 707, 30.
pag. 708.

supradictis: Nuper enim mandavistis Ecclesiis, ut quia persecutor vester ad partes istas venturus est, mittant vobis militiam munitam ad resistendum ei, quia non est concilium cedere venienti; super quo satis excusabiles sunt Ecclesia, quia non habent militiam, nec est in parte eorum mittere quod non habent, quos etiamsi haberent & mitterent, non est tutum confidere de ipsis. Nec scitur etiam de illis, utrum venturus sit, quia etiamsi ventres, preferendum esset (ut videretur) consilio humano consilium Domini, qui dicit, Si persecuti fuerint vos in unam civitatem, fugite in aliam, &c. And in the same year he attempted the

^f In Lugubri
querimoniâ
Additament.

Mat. Paris
MS. de qua
supra, cap. 3.
n. 59, 67.

^g Mat. Paris
Ann. 1246.
pag. 707, 2.

ut si clericus
ex tunc de-
cederet in te-
status, ejus-
dem bona in
usum Domini
Papæ con-
verteretur.

M

making

.: Mat. Paris
p. 730, 16.

.: Ibid. Ann.
1246. p. 715,
16.

h Rot. Parl.
50. Ed. 3.
n. 107.

making himself heir to any Clerk that should die intestate; and the year .: following received from the Clergy eleven thousand marks, *exceptis exemptis & tribus clericis*, as an addition to six thousand he had received the .: year before.

11. I shall not here take upon me to repeat all the times and wayes by which the subject had his purse thus drained, the labour would be too great, and the profit too little: it shall suffice to note, the Court of Rome, by much struggling, overcame in the end all difficulties, & did arrive to that height, the ^h Commons were forced in Parliament 1376. to prefer this petition: *Si tost come le Pape voet avoir monnoie pur maintenir ses guerres de Lombardy, ou ailleurs pur despender, ou pur ranson aucuns de ses amys prisoners Fraunceys prises par Englois, il voet avoir subsidie de Clergie d'Engleterre; & tantost celuy est grantez par les Prelats, a cause qe les Evesques n'osent luy contrestere, & est leve de Clergie sans leur assent ent avoir devant: Et les Seculers Seigneurs my preignent garde, ne ne font face coment le Clergie est destruiet, & la monoye de Roialme malement emporte.*

12. And indeed the Kingdome had great reason thus to complain: see one of many examples that may be alledged. In the year 1343, the 17. Ed. 3. Clement the 6. sent hither to provide for two Cardinall Priests, one out of the Province of York, the other Canterbury, in spirituall livings, to the value of 1000. marks a piece, *i sur une si generale & soverte maniera, qe la somme passera dix mille marques avant qe le doun soit accept.* But the State would not endure this, ^k but chasing their Agents out of the Kingdome, the King sent through every County, ^l *Ne quis ab ea tempore & deinceps admitteretur per bullam, sine speciali licentia Regis:* And a little after, the Parliament held the 20. of Ed. 3. 1346. the Commons yet more plainly, ^m *Nous ne voulons soeffrer qe payement soit fait as Cardinaulx, pour leur demore en France*

i Rot. Parl.
17. Ed. 3.
n. 59.

k Walling.
Hist. p. 150,
30.

l Hen. Knighton
col. 2583,
50.

m Rot. Parl.
20. Ed. 3. n. 33.
n. 35.

France *de treter*, &c. And soon after they represent this very particular of 2000. marks to be ^a *en anientissement de la terre*, and *encresce de nos enemies*; and therefore *qu'ils ne soient en nul maniere soefferts*, &c. In both which his Matie. gives them content.

13. Neither did the Papacy, having gained the possession (as I may term it) of taxing, impose these payments for one year onely upon forreign Churches, as at first, but for six successively one after the other. So did ^a *John* the 21. in the year 1277. and ^b *Clement* the 5. in the Councell of *Vienna* 1311. pretending an employment against the Infidells; but procuring Princes to joyn with them in the collecting, that it might be pay'd with more facility, (and therefore gave them either the ^c whole, or part of what was so raised; from whence no doubt grew that proverb so full of infamy, ^d *That the King and Pope were the Lion and Wolf*) did in the end (as we have heard) convert the treasure to the ransoming their friends, the maintenance of their wars, and such like mundane ends. The ^e *French* affirm, the first of their Kings who shared with *Rome* in these levies, to have been *Charls le Bel*, about 1326. which if it were, our Kings were before them; but such as succeeded knew there as well as elsewhere, how to apply what was thus gathered wholly to themselves, wiping the Popes clean out: and notwithstanding all ^f complaints in that kind from *Rome*, ^g *Duarenus* observes the Crown of *France* to have none more certain or speedy revenue, then that is thus raised of the Ecclesiasticks.

14. But these exactions grew so burthensome, *Martin* the 5th. at ^h the Councell of *Constance* 1417. was constrained to establish, *Nullatenus imponantur generaliter super totum clerum, nisi ex magna & ardua causa, & utilitate universalem Ecclesiam concernente, & de consilio & consensu & subscriptione fratrum nostrorum, sancta Romana Ecclesia Cardinalium & Pralatorum, quorum con-*

^a N. 35.

^a Wmms
Thorne col.
1926, 27.
^b Walsing.
Hist. p. 73, 3.

^c Vide Mat.
Paris Anno
1252. p. 849,
12.
^d Ibid. Anno
1255. p. 917.
39.

^e Chronicon de
Regibus Fran-
corum ad f-
nem Pauli
Emili,
Ann. 1326.
^f du Tillet
in Chronico.

^g Vide Hist. del
concil. Trident.
in 4^{to}, lib. 5.
p. 408.

^h De benefi-
ciis lib. 7. c. 1.
in fine.

ⁱ Concil. Con-
stant. Sess. 43.
de Decimis
& aliis one-
ribus: concil.
gen. Rome,
pag. 279. &
pag. 297.

y Herbert.
Hist. Hen. 3.
pag. 57. p. 59.
¶ Tulle five
Epistole Leo-
nis de eadem
re, quas vidi
manuscr.
z 26. Hen. 8.
cap. 3.

silium commodè haberi poterit; nec specialiter in aliquo regno vel provincia, inconsultis praelatis ipsius regni vel provincia, &c. Upon which Decree a supply of the *Tenth* being twice demanded, viz. 1515, and 1518, by Leo the xth. against the Turk, th' English Clergy denyed them both times. Thus the Papacy by little and little gained in England the power of sometimes laying that Tax on Church-men, is to this day known by the name of a *Tenth*, which became limited, as we have seen; and after by statute the 26. Hen. 8th. transfer'd to the King to be pay'd annually unto him; as were likewise the *First fruits* or profits of one year, commonly called *Annats*, (for I take them to be the same) of all spirituall livings: of which a word.

15. The first raising of them seemeth to have been, that when the Court of Rome did confer on Clerks and Chaplains residing with them, benefices in the Dioceses of others, they who thus obtained from that Chair not onely the Spirituall, or Ordination, but likewise the Temporall of Profit, did at first, either to shew their gratitude, or for that the Pope would have it so, voluntarily give the whole, or some part of the first years revenue to the Court, by whose favour they received all; and the Papacy perceiving the gain did thus accrue, laboured to extend it farther; was in some sort imitated by other Bishops; and for avoyding the shew of Simony, cover'd what was thus took with the names of *Annates*, *Vacantia*, *Minuta servitia Scriptura*, and such like. But as St. Gregory^a tolerating onely a liberality to be given after the reception of the *Pall*, his successors knew how to turn it to a revenue; so these, however at first begun, did afterwards become annually a profit. What

*Minuta servitia were small payments, such as had any expedition in the Court of Rome were

lyable unto, as fees to certain Officers or servants of the Pope, called therefore familiares Dni. Papæ: as of late, such as renewed leases of the Archbishop of Cam. did to his Secretaries, and others of his retinue. 1389. there was payed 4 of these to the Pope, and one to the dependents on the Cardinals. Thorn col. 2194. 31. the rest have no difficulty. a Lib. 4. Epist. 44. Indi 8. 13.

others

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others did in this kind, is not necessary to that I treat of; but upon the practice of the Church of Rome, the 25. Ed. 3.

the Commons ^b exhibit this petition to the King:

Prie sa Commune, &c. de veer & regarder, &c. Comment le

Pape ne soloit avant ces heures faire reservations de nul

benefice de seins Esglise, si l ne fust de benefice de ses Cha-

pleyns, ou de ses Clerks qe moreront en la Court de Rome;

& ore tard & de novel pur covetise d'avoir les primers

fruits, & les autres profitz qe endependent, ad reservee

& reserve de jour en autre a sa collation generalement &

especialment, si bien Abbeies & Priories, come touz les

autres grantz benefices d'Engleterre qe sont de Patronage

espirituel, & generalement il ad reservee ore tard toutes les

dignites d'Engleterre, & Provendres en Esglises Cathe-

dralles, & les donne si bien as Aliens come as Denezeins,

& issint ad le Pape touz les primers fruits des diss bene-

fices. By which it appeares, the Papacy, that formerly

took the first-fruits of onely such livings as men dyed

posselt of in the Court of Rome, had an intent of ex-

tending them to all were de Patronage espirituel: but whe-

ther an active King stopt upon this the endeavours of

that Sec. or the Popes, wise men, thought it not fit to

make too sodain an irruption into the profits of other

Churches. is not greatly materiall; ^c but 25. years af-

ter, the Commons again represent the Popes Col-

lector, Ore de novel cest an & ne le prest unges devant al

oeys du Pape les premiers fruits de chescun benefice, dont il

fais provision ou collation, except de graces grantz aux

poovres, on il ne soloit prendre nulles fruites fors qe soule-

ment des benefices vacantz en la Court de Rome.

16. But in whose time these first-fruits began to be

taken, there seems to me some difference amongst

writers. Theodoricus à Nym (who lived in the Court of

Rome, Secretary as some write to Gregory the xi. or ra-

ther, as it seems to me, of Urban the vi.) ^d sayes, Boni-

face the ix. circa decimum annum sui regiminis, viz. 1399.

b Rot. Parl.
Offav. Paris.
25. Ed. 3. m. 13.

c Rot. Parl.
50. Ed. 3.
m. 109.

d De schismat.
inur. Urban.
m. 6. c. 2.
lib. 2. cap. 9.

primos fructus unius anni omnium Ecclesiarum Cathedralium & Abbatiarum vacantium sua camera reservavit, ita quod quicunque extunc per eum promoveri voluit, ante omnia cogeretur solvere primos fructus ecclesie, vel monasterii cui prefici voluit, &c. With whom ^e Platina agrees; Annatarum usum primus imposuit, (Bonifacius ix.) hac conditione, ut qui beneficium consequeretur, dimidium annui proventus fisco Apostolico persolverent: sunt tamen qui hoc inventum Iohanni xxii. ascribunt, &c. The same likewise ^f Polidore Virgil affirms, though he speak as if some thought them of an higher time, which under favour I do not credit; for ^g Nicholas Clemanges, in the treatise he writ concerning them, saith, that when such reservations fell into consideration in the Councell of Constance (he lived whilst it sat) no beginning could be assigned before Iohn the xxii. began them, pro certo passagio ultramarino, & quibusdam aliis necessitatibus suis. To which I may adde the opinion of the wise and learned ^h Cardinall d'Ossat: Iehan xxii. François de nation, dont il me deplaist, fust le premier que outre les taxes & Annates qu'il inventa, &c. And Ranulphus Cestrensis, one of that time, ⁱ saith of him, Beneficiorum per mortem seu resignationem vacantium, sive per translationem, primos fructus reservavit, ita ut Rector institutus taxationem beneficij sui aut residuum taxationis acceptaret: ex qua cautela innumerales thesauri ad manus Papæ devenerunt, &c. and Knighton himself, ^k reservavit curia omnes primos fructus vacantium Ecclesiarum, sive per mortem sive per resignationem, &c. ^l Walsingham 1316. Summus Pontifex reservavit camera sua primos fructus beneficiorum omnium in Anglia per triennium vacantium: which not occurring of any Pope before, I cannot ascribe other to have begun them then he; who though, in a ^m bull dated the 5. January 4. Pontificatus, he mention Fructus redditus, proventus, primi anni beneficiorum, yet by the doubts

^e Platina in Vita Bonifacii ix.

^f De invent. rerum lib. 3. cap. 2.
^g Traict. de Annatis non solvendis, in fasciculo rerum expetend. & fugiend. fol. 189. Et inter opera ejus pag. 82. col. 2.

^h Epist. 296. Rome 22 Decembr. 1601.

ⁱ Polychron. lib. 7. cap. 42. apud Hen. Knighton col. 2534. 8.

^k col. 2565, 47.

^l Hist. Anno 1316. p. 84, 45.

^m De prebendis & dignitatibus cap. 11. extravaganti. Commun.

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doubts he there resolves, shews the practice of them then newly brought into the Church. But whereas the ^m writers before-named agree, the *English*, of all Nations, never received in this the full extent of the Papall commands, I conceive it to arise from the good Laws they made against them: of which before, and after.

17. It is hardly credible how great a masse of treasure was by these wayes sent hence into *Italy*. ⁿ The revenues th' *Italians* were posselt of in *England* 1245. are accounted not lesse then 60. thousand Marks; ^o 1252. it was thought they did amount to 70. thousand (all which for the most drained thither:) and in ^p the Parliament held about an hundred years after, the Commons shew, what went hence to the Court of Rome, *tourne a plus grand destruction du Royaume qe toute la guerre nostre Seigr. le Roy*: yet, notwithstanding so many statutes as were made by that Prince, for moderating the excesses in this kind, the 30th. they complain, (I shall give it contractedly) ^q the Popes collector here held a receipt equall to a Prince or Duke; sent annually to Rome from the Clergy, for Procuration of Albeys, Priories, First-fruits, &c. xx. thousand Marks, some years more others lesse, and to Cardinalls and other Clerks beneficed in England as much, besides what was conveyed to English Clerks remaining there to sollicite the affairs of the Nation: upon which they desire his Ma^y, no collector of the Pope may reside in England.

18. But the King, as it seems, not greatly complying with their desires, the ^r year following they again instance, that certain Cardinalls, notorious enemies, had procured a clause d'anteferri to certain benefices, within the Provinces of Canterbury and York; that the Popes Collector was as very an enemy to this State as the French themselves; that his house keeping here at the Clergies cost was not lesse then 300^l. by the year; that he sent annually,

^m Cle-
manges, Pla-
rina, Polidor.

ⁿ Mat. Paris.
Ann. 1245.
pag. 658, 49.
pag. 667, 36.
^o Ibid. pag.
859, 48.
^p Rot. Parl.
Octav. purif.
25. Ed. 3.
^q n. 13. tent.
Ann. 1351.

^r Rot. Parl.
50. Ed. 3.
n. 10; 106.

^r Rot. Parl.
51. Ed. 3.
n. 78, 79.

* a la foiz
xx. Mill.
marches; a la
foiz xx. Mill.
lib.

nually from hence beyond Seas* at one time 20 thousand marks, sometimes 20. thousand pounds; and what was worse, espied the secrets of the Kingdome, vacations of benefices, and so dayly made the certainty known to the said Court; did now raise for the Pope the first-fruits of all dignities and other smaller promotions, causing by oath to pay the true value of them, surmounting the rate they were formerly taxed at: which now in the very beginning ought to be crusht, &c. Vpon which considerations they desire, all strangers, Clerks and others (excepting Knights, Esquires, Merchants, Artificers) might sodainly avoid the Kingdom; no subjects, without the Kings expresse licence, to be Proctors, Attorneys, Fermors to any such Alien, under the pain, after Proclamation made, of life, member, losse of lands and goods, and to be dealt with as thieves and robbers; no money during the wars to be transported out of the Kingdom by exchange or otherwise, on the forfeiture of it. But to this the answer onely was, *Se tiegnent les estatutz & ordonances ent faites*. Whereupon the next Parliament the Commons prefer'd again three Petitions, touching I. The payment of * First-fruits taken come due a la chambre nostre seint Pere, yet not used in the Realme before these times, was contrary to former treaties with the Pope, &c. II. Reservations of benefices. III. By that way bestowing them on Aliens, who sundry times employed the profits of them towards the ransoming or araying their friends, enemies to the King. Of all which they desire his Ma^y to provide remedy; as also that the Petitions the two last Parliaments (of which before) might be consider'd, and convenient remedy ordained. To which the answer is, *Les Seigrs du grand conseil ordeigneront due remedie sur les matieres comprises en cestres trois billes precedentes*. And here I take the grand Councell to be the Privy Councell, not the Lords in or out of Parliament; called the grand Councell for the greatnesse of the affairs fell within their cognizance, and

† Rot. Parl.
1. Ric. 2.
n. 66, 67. 68.
* What each
Bishop payed
to the See of
Rome at his
entrance for
First-fruits,
vide Godwin.
Catal. in fine unius
cujusque
Episcopatus.

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and: named the 5. of Hen. the 4. to consist onely of six Bishops, one Duke, two Earls, and other in all to the number of 22.

19. What order they establisht, I have not met with; it is manifest not to have been such as gave the satisfaction hoped for, by the Commons^u renewing in effect both 3^o. and 5^{to}. Ric. 2. the same suites: and the inconveniences still continuing, * in the year 1387, 10. Ric. 2. William Weld was chosen Abbot of S. Augustins (in the place of Michael newly dead,) who troubled with a quartan ague, the French and Dutch on the seas, the King inhibited his going to Rome for confirmation, &c. Hethereupon employs William Thorn, (from whose pen we have the relation) hoping to be excused himself of the journey; who .∴ shewing the sufferings of the house, the miserable state he must leave it in, that he would expose it *irrecuperabili casui & ruina*, that the King had commanded his stay, was in the end told by the Pope (after all means he could use) .∴ *Rex tuus precipit quod non veniat electus ille, Ego volo quod compareat & examini se subjiciat*: and again, after yet more earnest sollicitation, *quia audivimus turbationem inter Regem & Barones suos*, (the fittest time to contest with a prince) & *multa sinistra de persona electi, & quod cederet Romana ecclesia in .∴ præjudicium, absque personali comparitione non intendimus ipsum confirmare, ne daretur posteris in exemplum*. The cause hanging three years in suspense, the Abbot in fine was forced to appear in Rome for his benediction, and returned with it not to his house till about the end of March 1389. the 12. Ric. 2. After which, the next 7 Parliament obtained the statute of *Premunire*, against the Popes conferring any Benefice within the said Kingdome from the 29 of January then ensuing; and no person to send or bring any summons, or sentence of excommunication against any for the execution of the same law, on the pain of being arrested, put

N

in

Rot. Parl. 5.
Hen. 4. n. 37.
vide 10. Ric.
2. n. 20.
13. Ric. 2. n. 6.
7. Hen. 4.
n. 31. 11. Hen.
4. n. 39.
u Rot. Parl.
3. Ric. 2. n. 37.
or cap. 3. or
crast. anima-
rum. 5. R. 2.
n. 90. 91.
xWm. Thorne
col. 2184. or
sequenti.

.∴ col. 2186,
40.

.∴ col. 2187,
62.

.∴ cap. 3. n.
13. 14.

y 11. Ric. 2.
cap. 2. or 3.
stat. 2.

.. 16 Ric. 2.
hist. lib. 20.
pag. 417, 32.

.. 16 Ric. 2.
cap. 5.

.. 1. & 2. P.
& M. s. 3. see
Cook Inft. 3.
pag. 127.

.. Catholick
Divine his an-
swer to Sr. Ed.
Cook, cap. 12.
n. 32. 49. pag.
305, 311.

2 Rot. Parl.
13. Ric. 2. n.
43.

in prison, forfeiture of his lands, tenements &c. and incurring the pain of life, member, &c. The intent of which law .: Polidor Virgil rightly interprets to have been, a confining the Papall auctority within the Ocean, and for the frequent exactions of Rome, *ut nulli mortalium deinceps liceret pro quavis causa agere apud Romanum Pontificem; ut quispiam in Anglia ejus auctoritate impius religionisque hostis publice declararetur, neve exequi tale mandatum si quod ab illo haberet, &c.* To which law three years after some other .: additions were made: and none of these were ever repealed by Queen Mary, who though she did admit a union with the Church of Rome, yet in restoring the Popes Supremacy the State used so .: great caution, as it ever seemed to me rather a verball then reall admission of his auctority; which it seems her Majesty well understood, in that she would never permit *Peito* to appear before her in the quality of either Cardinall, Bishop, or Legat, to all which he was preferred by *Paulus 4.* But where .: some would excuse these and such like laws, as past by *consent and toleration from Rome*, or at least by the importunity of the Lay; that I have said doth enough shew the Papall care, in suffering nothing, they could stop, might any way prejudice that See. And for the Bishops passing the 16 Ric. 2. pressed by the Temporality, it is so much otherwise, as that Statute is enrolled on the desire of the Archbishop of Canterbury, Rot. Parl. 16. Ric. 2. numero 20. in fine.

20. In the same Parliament, the Commons, as it seems, much exasperated against the Popes collectour, do yet farther * petition, he may have the warning of fourty daies given him to be gone out of the kingdome, *sur peine d'estre pris come enemy du Roy & ranceone; & ge desore en avant nul collectour soit demoerant deinz le Royame d'Engleterre, s'il ne soit lige du Roy, & ge mesme cestui face nul rien a contraire de l'estature de Provisors fait en cest present Parlement, sur peine de vie & de membre,*
sans

sanx perdon, considerant les meschiefs & damages qe les Collateurs estranges ont faitz deinz le Royalme devant ces heures. But to this the answer only is, *Le Roy s' adviserà.*

21. After these petitions and laws, however they sufficiently barr'd the Court of *Rome* from meddling with this Church, and enough shewed the right of the Kingdome in reforming of it self, and redressing all inconveniences came unto it from beyond sea; yet the King having a power of dispensing with those statutes, this mischief ensued: divers who easily obtained letters of provision to a good benefice from the Papacy, sued to the King (who held fair correspondency with the Popes) that they might put his bulls in execution; who delayed his concessions sometimes a year or longer, after the vacation of the living, during which the Ordinary had admitted some able person into the place, who then began to be disturbed: for prevention of which, the 2 statutes of 7. Hen. 4. and 3. Hen. 5. were made, that no licence should be available against any possessor of a living at the day of the date thereof, and farther to make void all so granted. After which the contract, too long to be here inserted, between *Martin* the 5. and the *English* Church, for settling severall disputes of Ecclesiastick cognizance, as of uniting benefices, consolidations, &c. was concluded; in which the Papacy seems to permit such particulars to the *English* Clergy, as they would not be restrained in, though formerly claimed not to be exercised but by his authority. Yet the 8. Hen. 5. n. 10. the Commons petition, *qe nul persone, de quel estate ou condition qu'il soit, ne amesne &c. hors du Royalme d' Engleterre.--- or ne argent pour marchandise de seinte Esglise, ou autre grace ou privilege d' seinte Esglise avoir, ne pour autre cause queconque, &c.*

22. It would be heretigious, and not greatly pertinent, to repeat all the provisions made in this kind, for the well-governing the Clergy of this Kingdome, and preserving of them free of destruction from abroad;

27 Hen. 4.
cap. 8. 3 Hen.
5. cap. 4.

Concordata inter
Martinum 5.
& Ecclesiam
Anglicanam
in Actis publi-
cis Archiepisc.
& in Biblio-
theca Cotton.
Manuscr.

which yet were never such, but the Pope and his officers did export a great quantity of treasure from them. *William Thorne* hath recorded the disbursements to the Court of *Rome* at the election of *Michael* Abbot of Saint *Augustine* 1375. not to have been lesse then 42 8^l.—17^s.—10^d. beside the expence of such as were sent, and what was paid for the loan of mony to make these payments, viz. 130^l.—18^s.—2^d. Our Historians^b observe, in the Parliament held 1532. 23 *Hen.* 8. it was computed, the Papacy had received out of *England* for only the Investitures of Bishopricks, in the fourty years last past, an hundred and sixty thousand pound sterling, which is four thousand pound by the year: an incredible summe, considering the poverty of the Realm for lack of silver, the weight of the mony then currant, and the strict laws of former Princes against such like transportations.

23. Thus having shew'd the beginning of the Papall auctority with us, and how from the generall power all Bishops received from *Christ*, and the fatherly care such as were instrumentall in the conversion of a people did carry to them as their spirituall children, and the obedience they likewise yielded to their ghostly fathers, the Pope began by steps (as I may say) to exercise a dominion over the Clergy here, and not stopping there, upon various pretences, by severall waies, and (as it appears) degrees, to become so far lord of their Temporalls, that they might not dispose of them, well, contrary to his liking, because he had the sole rule of all committed to him from *Christ*: the first point I conceive sufficiently proved, viz. that what was gained thus by great industry, at sundry times, by severall means, could no way speak his superintendency over this Church *jure divino*.

The second point remains, whether our Princes, by the advise of their Clergy, had not auctority to cause them reform this Church, without any new assumption of power, not formerly invested in the Crown: which

^b *Antiquit.
tat. eccles.
Britann. in vita
Cranmeri pag.
381. 2. edit.
1572.
Hall 24. Hen.
8. fol. cciii. a.
Herb. in
Hen. 8. p. 330.*

which leads me to shew what the Regall power *in sacris* was here held to be, before *Hen.* the 8. and *Rome* divided each from other.

C H A P. V.

*How far the Regall power did extend
it self in matters ecclesiasticall.*

1. **B**Efore I enter into the dispute of the right the kings of *England* did exercise in the regiment of this Church, I hold it not unnecessary to see, in what Divines hold ecclesiastick auctority doth consist. ^a *Bellarmino*, ^b *Turrecremata* and others divide spirituall power into *Ordinis*, which they refer to the administration of the Sacraments; and *Iurisdictionis*, which they hold double, *internall*, where the Divine by perswasions, wholesome instructions, ghostly counsell, and the like, so convinces the inward conscience, as it is wholly obedient to his dictates, such as those of *St. Peter* were *Acts* ii. 37. and *externall*, where the Church *in foro exteriori* compells the Christians obedience. Now for the first and second of these, the King did not take upon him at all to meddle: for he neither assumed to himself a power of preaching, teaching, binding, or loosing *in foro animæ*, administering the holy Sacraments, conferring Orders, nor to any particular is properly annexed to them; only to such things as are of the outward policy of the Church, as that God may be truly served, such as transgresse the received lawfull constitutions even of the Church, fitly punished, by the right of his Crown, the continued practice of his Ancestours, he could not doubt but he might deal in, causing all others, be they Clerks or other, that offend, to suffer condigne punishment.

^a *De Romano Pontif. lib. 4. cap. 22. §. 1.*
^b *Sum. Eccles. lib. 1. cap. 93, 96.*

N 3.

2. For:

2. For the better understanding how far the ecclesiastick rule of our Princes did extend, we are to know, they were never doubted to have the same within their dominions, *Constantine* had in the *Empire*; and our Bishops to have that *St. Peter* had in the Church. *Ego Constantini, vos Petri gladium habetis in manibus*, said King *Edgar* to his Clergy, in that his speech so ^c recommended to posterity. And therefore, as after the Christian magistrature began to have government, affairs of most concernment in the Church (as is ^d said) had their dependence on the Emperour, the greatest Synods called by him, and the holy men of those times did not doubt the continuing to him the title of *Pontifex maximus*, as ^e *Baronius* notes, *sine ulla Christianitatis labe*; and as ^{*} *Constantine* did esteem the Ecclesiasticks *ἡ ἡμεῶν τῆς ἐκκλησίας*, but himself *ἡ ἡμεῶν τῆς ἐκκλησίας* *ἐκκλησιαστικῆς*, them for things within, but himself for matters without by God appointed a Bishop: so the same King *Edgar*, ^f no less to be remembred by the *English* then *Charls* the Great by the *French*, was ^g solicitous of the Church of his Kingdom, *veluti Domini sedulus Agricola*, and *Pastorum Pastor*, was reputed and writ himself the *Vicar of Christ*, and by his ^h laws and Canons assured the world he did not in vain assume those titles, and yet *sine ulla Christianitatis labe*, so far as antiquity ever noted.

3. What particulars those were the Emperours did hold *τὰ ἑαυτῶν τῆς ἐκκλησίας*, to be without the Church, belonging as I may say to their *Episcopacy*, nothing can better teach us then their commands yet remaining in the laws they publisht; as in Cod. Theodof. *de feriis, de nuptiis*, &c. *de fide catholica, de Episcopis eccles.* & *Clericis, de Monachis, de Hereticis, de Apostatis, de religione, de episcopali iudicio*, &c. Cod. Iust. lib. 1. Tit. 1. 2, 3, 4, 5. & passim in eo: and in the Novells, Novel. 6. *Quomodo oporteat episcopos & ceteros clericos ad ordinationes perduc.* Novel. 137. *de ordinatione Episcoporum & Clerico-*

rum.

^c apud Ailredum col.

361, 16.

Beato Iero-
cujus vicem
Episcopi ge-
runt. Capitul.
Carol. & Lu-
dovic. lib. 5.
cap. 163.

^d Socrat. pro-
log. ad lib. 5.
Hist.

^e tom. 3. Anno

312. n. 100.

^{*} Euseb. de
vita Constanti-
ni lib. 4. cap.

24.

^f Flor. Wi-

gorn. Anna

974. p. 360.

^g Regularis

concordia &c.

notis Selden

ad Eadmer.

pag. 146. 16.

^h 155, 6, 15.

^h Concil.

Spelm. pag.

437. cap. 7.

pag. 438. cap.

8. vide leg.

Edwardi cap.

17.

^h Concil.

Spelm. a pag.

444, ad pag.

476.

rum. The prefaces to which two laws are remarkable: the first shewing the Priestly office is *Divinis ministrare*, and the Princely, *maximam habere sollicitudinem circa vera dogmata, & circa sacerdotum honestatem, &c.* the other beginning thus, *Si civibus leges, quarum potestatem nobis Deus pro sua in homines benignitate credidit, firmas ab omnibus custodiri ad obedientium securitatem studemus, quanto plus studii adhibere debemus circa sacrorum Canonum & divinarum legum custodiam?* And accordingly Novel. 123. in 43 chapters he did establish many particulars pertaining to the government of the Church and Churchmen; and Novel. 131. not only appointed the observance of the four first generall Councils, but decrees the place or precedency of the Pope of Rome and Archbishop of Constantinople should be according to their definitions above all other seats, and how far the Dioceses of some Chairs by him newly erected should extend, besides other points in severall chapters to the number of 15, treating of particulars solely held now of ecclesiastick cognizance; as did likewise *Charls* the Great, and *Ludovicus Pius* in their capitulars in very many places. But with these I have not took upon me farther here to meddle, then by naming some, to shew, they having been practis'd by Emperours, the Kings of England, endowed from above with the same authority in ecclesiasticks, might very lawfully within their dominions exercise the like: the question therefore will be, what they did understand their power in the Church to be, and accordingly how far they did extend it in use.

4. As for the first, nothing can speak more clear then what themselves publisht on mature and sad deliberation, yet remaining in their laws; in which we find the Regall office thusⁿ described: *Rex, quia vicarius summi Regis est, ad hoc est constitutus, ut regnum terrenum, & populum Domini, & super omnia, sanctam veneretur ecclesiam ejus, & regat, & ab injuriis defendat:* and alit-

1 cap. 1.
m cap. 2, 3, 4.

See Novel.
146.

n Leg. Edw.
Confes. cap. 17.
pag. 142.

the

tle after, *Debet Rex Deum timere super omnia, & diligere, & mandata ejus per totum regnum suum servare; debet etiam sanctam ecclesiam regni sui, cum omni integritate & libertate, juxta constitutiones patrum & predecessorum, servare, fovere, manutenere, regere, & contra inimicos defendere, ita ut Deus praeter ceteris honoretur, & praeter oculos semper habeatur, &c.*

o Leg. Canut.
cap. 11. pag.
109. Iorval.
capite 31.
col. 923. vide
cap. 25. pag.
106. Iorval.
cap. 23.

Canutus, o Nobis omni ope atque opera enitendum erit, qua potissimum ratione ea exquiramus consilia, qua ad Reipublica pertinent utilitatem, pietatem confirment Christianam, atque omnem funditus injustitiam evertant, &c. Iorvalensis renders it, quomodo possit—recta Christianitas propensius erigi.

p Leg. Ina in
præfat. pag. 1.
apud Iorval.
col. 761, 41.

* rapla
Saxon.

Ina, p In magna servorum Dei frequentia religiose studbam, tum * animorum nostrorum salutem, tum communem regni nostri conservationem; which Iorvalensis reads, sollicitus de salute animarum nostrarum & de statu regni, shewing the care both of his subjects souls and bodies, however after a differing way, did in some measure pertain unto him.

q tom. 9. Anno
740. n. 14.
See Hunt, fol.
194, 30, 42.
r Fubbert,
Carnotensis
epist. 97. fol.
93. a. edit.
Paris. 1608.

5. Neither did these expressions passe only from the worst of our Kings; but from Ina, *Rex maxime pius*; as q Baronius styles him; from Canutus, who not only himself 1031. went in devotion to Rome, but was acknowledged t *erga ecclesias atque Dei servos benignissimus largitor*; Edward the Confessor, a canonized Saint; famous for being the best Kings and holiest men: who did not only leave us in their laws the Kings part, but what they conceived likewise the Bishops was, viz. to be f *Dei pracones, divini juris interpretes*, that they were *rerum divinarum commoda predicare palam*, that for and to the people they should *vigilare, excubare, proclamare*, &c. as those that t *contra spirituales nequitias debent populo providere*, by letting them know, *qui Dei praeceptis obedire neglexerit, hic cum ipso Deo commune non habeat*. And this is that sword of St. Peter mentioned by King

f Leg. Canut.
cap. 26. pag.
106. apud
Iorval. cap.
24. col. 923,
17.
t Sequor in re-
liquis Iorva-
lensem.

Ed-

Edgar, which when the holy Bishops of the primitive times did only put in execution, they neither found Princes backward in supporting their designs, nor people refractory to their exhortations. Thus we see, as they declared the office of a King, they were not silent in that of a Bishop, shewing how either laboured in his way the reducing people to piety, and a vertuous life; the one by making good laws for compelling the wicked, the other by giving such instructions as convinced the inward man.

6. So that we often meet with the Prince extending his commands to the same things the Priest did his persuasions :

I. In point of Sacraments, * That children should be baptized within 30 days after birth. *Leg. Ina cap. 2. pag. 1.* *u Jorval. cap. 2. col. 761.*

II. And, because it seems some Priests were negligent performers of that duty, * That such as were not prepared, or denied the baptizing of them, should be punished. *Leg. Ed. & Guthrum cap. 3. pag. 42. excerptiones Egberti cap. 10, 11, 12. in concil. Spelm. pag. 259.* where you may observe the Kings precept to impose on the transgressor the payment of 12 y ora, but the Bishops to be onely persuasive. * *Jorval. leg. Aluredi cap. 5. col. 830.*
y what Ora was, see Mr. Sumners Glossary.

III. No person to be admitted to the Eucharist, be a Godfather, receive confirmation from a Bishop, nor knowing the *Pater Noster* and *Belief*. *Canones dati sub Edgardo & legibus ejus annexi, cap. 17. 22. p. 67. & 3 Leg. Canuti cap. 22. p. 105. Spelm. Concil. cap. 22. pag. 599.* 3 *Jorval. cap. 23. col. 921. 57.*

IV. That persons instructed should receive the Communion thrice every year. *a Leg. Canuti. cap. 19. p. 104.* a *Jorvalensis cap. 21. col. 921. 57.*

V. Restrained by their laws matrimony to the 6th degree of consanguinity. *b Leg. Canuti. cap. 7. p. 101.* b *Apud Jorval. cap. 11. co. 919.*

VI. Reserved to themselves a liberty of dispensing with the marriage even of Nuns. *c Leg. Alured. cap. 8. p. 25.* And it is not to be forgot, in that particular, *Lanfrank* joyns the Kings advise (as a person of equal power) with his own, . . . *& hoc est, saith he, consilium Regis & nostrum,* c *Jorval. cap. 9. col. 823.*
. . . *Lanfranc. Epist. 32.*
O 7. Com.

VII. Commanded th' observance of Lent *principali auctoritate*. Beda lib. 3. cap. 8.

VIII. Appointed certain daies to be held festivall by the better sort, but allowed the servant and labourer to work in them. ^d Leg. Aluredi cap. 39. pag. 33. which the laws of Canutus seem after to take away. ^e Leg. Canut. cap. 42, 43. pag. 118. See there pag. 103. cap. 14, 16, 17. which was likewise exercised 1393. by Richard the 2.

I omit here their edicts for the observation of the Lords day, payment of Tythes, Incontinency, and such like, (held now merely of Ecclesiastick cognizance) for the multiplicity of them.

IX. Divided old, and erected new Bishopricks. Beda lib. 3. cap. 7. lib. 4. cap. 12. lib. 5. cap. 19.

And yet this is that ^fCardinall Bellarmine holds a point of so high concernment, no man can do it without auctority obtained from Rome: which yet we never read to have been asked, .∴ though Theodore 679 erected five (*consensus Regis*) at one time; and some other altogether without the Popes liking, as those in the North, after th' expulsion of Wilfrid. Confer Beda lib. 4. cap. 12. cum libro 5. cap. 20. But of this before.

X. Caused the Clergy of their Kingdome to meet in counsels. Malms. fol. 26. a. 38. and sometimes presided themselves in them, though the Popes Legate were present. Concil. Spelm. pag. 292, 293. pag. 189, & passim ibid. Vita Lanfranci cap. 6. col. 1. pag. 7. Vide Florent. Wigorn. An. 1070. pag. 434.

7. Of the Crowns commanding in these particulars, it is apparent to have been in possession, the Pope seeing and not interrupting any whit, whilst the Saxon and Dane bare here the sway; when, to speak truth, it seems to me not so much to have been insisted on, by whose auctority the thing commanded was done, as a care taken of all sides nothing should be required but just, and pious; which

^d Torvalensis
cap. 50. col.
826, 60.

^e Torval.
cap. 67, 68,
69, 70, 71,
72. col. 927.
vide ibidem
col. 920. cap.
17, 18, 19,
20. Thorn
col. 2197, 15.

^f de eccles. lib.
4. cap. 8. §.
Nota tertio.

.∴ Florent.
Wigorn. p. 559.

which made each precept, without dispute, from what author soever it proceeded, be readily yielded unto: and so the Normans found it, under whom the first contentions (concerning jurisdiction) with the See of Rome began. For before William the first possess himself of this Crown, it is certain, the English Bishops had no ordinary Courts distinguish'd from the Lay, but both secular and ecclesiastick Magistrate sate and judged together, what pertained *ad observantiam religionis locis suis, & à sua dioceseos synodis*; as was likewise the custome * in France.

* Carol. & Ludovic. cap. lib. 6. cap. cxi.

8. This were enough manifest, in that we find the Lay not only present, but subscribers to many of our ancient & councils; did not the laws of ^h *Ethelstan*, ⁱ *Edgar*, ^k *Canutus* farther assure us. It is probable, inferiour judicatures did refer matters of doubt to the greater Courts or *scypegemot*, to be held twice a year, as the former edicts and ^l some Councils did establish: which produced that care in the Council of ^m *Celichyth* 816. the Bishop should transcribe judgements given *in qualicumque synodo* of what pertained to his diocese, and he to keep one copy, and the party whom it concerned another of such determination (which I take to be those laws mentioned by ⁿ *Eadmerus*, which as they were reposed in some parts of the Church, so were the pleas (as it seems) usually o there held.) But the Conqueror, finding these proceedings to be *non bene, neque secundum sanctorum canonum precepta*, &c. did by his Charter make a distinction of the Courts, that such as were convented by the Bishop should answer *non secundum* Hundred, *sed secundum canones & episcopales leges* &c. The Charter to *Remigius* Bishop of Lincoln is upon record, published by many, and was certainly by the Conqueror directed to every Diocese through the Kingdom: for I have seen in a hand of ^q *Edward* the first one for

g in concil. Spelman. passim.
h apud Iorval. col. 845, 36.
i cap. 5. p. 64. Iorval. pag. 872, 13. cap. 10.
k cap. 17. pag. 3. Iorval. cap. 38. pag. 9:4.
l Concil. Calcutib. apud Spelman. cap. 3. pag. 293.
m apud Spelman. concil. p. 330. cap. 9.
n Eadmerus apud Gervasium Dorobernensem, col. 1292, 18.
o apud Gervasium & Sim. Dunelm. five Turgot. de Dunelmensi ecclesia lib. 3. cap. 10. col.

O 2

. Lon-

London, testifying it was then found in the Episcopall register there.

9. When this past the King, whether at the Popes Legats being here for deposing *Stygand* 1070. (about which time Historians remember he made some beginning for settling the *English* laws, and is therefore likely to have then past this) or when they were here for settling the dispute between *York* and *Canterbury*, or at what other time, is uncertain. Yet I cannot deny, it seemeth to me to have given th' occasion of those expressions in *Alexander* the 2. his letter to him, that the world, *in maligno positus, plus solito pravis incumbat studiis; tamen inter mundi principes & rectores egregiam vestra religionis famam intelligimus, & quantum honoris sancta Ecclesia tum Simoniacæ vires opprimendo,* (which is apparently spoken of *Stygand*) *tum catholica libertatis usus & officia* (by which questionlesse he points at this charter) *confirmando, vestra virtus impendat, non dubia relatione cognoscimus*, &c. Now certainly, if he did grant it during the life of the Pope, it must not have been after 1073. in which year he died. I confesse, I have not met with any clear example of the practice of it during thereigns of that King, or either of his children: For though *Anselme* about 1106. writes to *Henry* the first, (who had punished certain Clerks not observing the decrees of a Councell held at *Westminster* 1102) *quod hætenus inauditum & inusitatum in ecclesia Dei de ullo Rege & de aliquo principe; non enim pertinet secundum legem Dei hujusmodi culpam vindicare, nisi ad singulos episcopos per suas parochias:* yet I conceive this is to be interpreted of the King doing it alone without the Bishop, not when they both joyned together after the manner then in use, which himself elsewhere ^u advises *Rufus* unto; *Conemur una, tu regia potestate & ego Pontificali auctoritate, quatenus tale quid inde statuatur, quod cum per totum fueris regnum divulgatum, solo etiam auditu, quicunque il-*
li.

¹ apud Baron.
tom. 2. Ann.
1071. n. 9.

^u Eadmer. p.
85, 40.

^u apud Ead-
mer. pag. 24,
13.

lius fautor est paveat & deprimatur. I can take this for no other, but that in the laws of *Eshelstan*, *Debent episcopi cum seculi iudicibus interesse iudiciis, ne permittant, si possint, ut aliqua pravitas germina pullulaverint.* And the laws of *Henry* the first are expresse, the use to have continued in his daies; for they approve the ancient institution, That *generalia Comitatum placita certis locis & vicibus convenire debere*, That the Iudges in those Courts were *Episcopi, Comites, Vicedomini, &c.* The causes they dealt in, and order of proceeding, *agantur primo debita vera Christianitatis iura, secundo Regis placita, postremo causa singulorum, &c.* And why may not *certa loca* here be what *Anselme* calls *Parochia*, the Conqueror *Hundred*?

10. But good laws are not alwaies suddenly put in execution; and this of the Conqueror we may take to have slept, till towards the beginning of King *Stephen's* time it had got some strength, for then we meet with plain precedents of the Ecclesiastick Courts being sever'd from the Lay. *Theobald* of *Canterbury* molesting the monastery of *St. Augustines* concerning certain Priviledges granted from the Papacy, th' Abbot obtained a bull from *Innocentius 2.* of the 20 November 1139. in his hottest favour, in which the Pope expostulates with th' Archbishop, *quod occasione privilegii nostri, idem monasterium vehementer infestas, & ecclesias eidem canobio pertinentes eundem abbatem ordinare non sines, quin potius violenta dominatione ecclesias eorum firmatas diceris infregisse, & presbyteros tuos, invito Abbate, & ejusdem loci fratribus, contra Romanæ ecclesiæ privilegia, quibus idem canobium est munitum, in eis ponere præsumpsisse: nec his contentus, abbatem ipsum, & homines ejus, ad placitandum super hoc in curiam tuam, prout asserunt, præsumpsisse traxisti, eisque ob eam rem penam molieris infligeris, &c.*

Leges instituantur cum promulgantur, firmantur cum moribus auctorum approbantur. Dist. 4. cap. 3.

z Habetur hæc bulla in splendido Ms. reposito in aula Ste. Trinitatis Cantabr. ante 200. annos exarato, & in alio Ms. optima nota ante quadringentos annos scripto in Secchario. fol. 49. b.

a Col. 1300.

11. *William Thorne*, who^a mentions this 1139. 4.

Steph. observes / which is warranted by the bull it self) *quod iste Theobaldus primo Abbatem & conventum ad causas trahere conatus est*, and is the first I have noted in which th' Ecclesiasticks alone did force men to plead in their Courts; which, as it doth prove they then had them, so we may conclude them not long to have been posselt of that power: for it is altogether improbable, if that act of King *VWilliam* had been in his and his sonns time generally practic't, but some Archbishop, in above fifty years, might have attempted as much, if not to the Abbot, at least to some other; as after this the examples are frequent, of which one in the 122 epistle of *Iohannes Sarisburiensis* is not unworthy the remembring. *Symphorian* a Clergy-man of *York*, accused one *Osbert*, Archdeacon of the same Church, before king *Stephen*, the Bishops and Lords, 1154. for making away *VWilliam* the late Archbishop of that See by poyson. A question grew, to whether Court this cause belonged. The King affirmed it to belong to the temporall, for the heynousness of the fact, and because it was first entred upon in his presence. But before the decision *Stephen* dyed, and *Henry* the 2. succeeded; *de cujus manibus* (saith my Author) *vix cum summa difficultate, in manu valida, cum indignatione Regis & omnium procerum, jam dictam causam ad examen ecclesiasticum revocavimus*; from whence it was by Appeal carried to *Rome*.

12. But what this *manus valida* should be, that took the case from the King, I cannot imagine: for it is undoubted, in all disputes of this nature, the Kings Courts have been ever Iudges to what Court the cause did belong. *Bracton* speaks very clearly; ^b *Iudex ecclesiasticus cum prohibitionem à Rege suscepit, super sedere debet in omni casu, saltem donec constiterit in curia Regis ad quem pertineat jurisdictio: quia si Iudex Ecclesiasticus astimare possit an sua esset jurisdictio, in omni casu indifferenter procederet non obstante regia prohibitionem, &c.* and 1080 *VWilliam*

b Lib. 5. de
exceptionibus
cap. 15. §. 3.
fol. 412. a.

liam the first, in a ^c Councell at Illebon in Normandy, by th'advise of both estates, Ecclesiastick and Secular, did settle many particulars to belong to the cognizance of the spirituall Iudge; and concludes, that if any thing were further claimed by them, they should not enter upon it, *donec in curia Regis monstrent quod habere debeant.* Neither were the Lay to molest them in the exercise of ought there mentioned, *Donec in curia Regis monstrent quod Episcopi inde habere non debeant.* So in both reserving the decision to his own Courts, of what pertained to each: in so much as, what that strong hand should be, did thus take this from the King, I must profess not to understand. And that our Kings had ever an inspection over those Courts, is not to be doubted, by the Charge against Becket, in which Henry the 2. urgeth, *d quod cuidam Iohanni coram ipso litiganti plenam justitiam non exhibuit, & super hoc ad Regis presentiam vocatus, venire contempsit.* To which th' Archbishop answered, *prafato Iohanni condignam non desuisse justitiam, & Iohannem non legaliter curiam suam infamasse, qui non super evangelium, ut moris est, sed super veterem cantuum codicillum, quem secum tulerat, voluerit pejorare, &c.* and for his not attending the King, to give him satisfaction in the point, pleaded th' excuse of sicknesse; yet for that contempt was adjudged to loose his moveables.

^c Concil. Illebon. cap. 47. apud Ordericum Vitalem p. 552, 554.

^d Apud Ger. Dorobern. col. 1389, 37. An' 1164. See Rot. Parl. at Leicester, 2. Hen. 5. per des Cœs. 3.

By which it is evident, th' Archbishop did then ^e exact oaths of such as were called into his Court, that he was to give an account to the King of his carriage in it, who by his constitutions hath ever directed the manner of proceedings in it. See *Mat. Paris Anno 1247. pag. 727, 29. Anno 1246. pag. 716.1.* But of this ^f more hereafter.

^e Gervas. Dorobern. col. 1389, 42. Hoveden, An. 1165. fol. 283, a. 22. f. n. 17. §. xvii.

3. The Conqueror, though he did shew so much compliance with the *Romanist*, as not to deny any thing former Kings had acknowledged to the Papacy as due, yet farther

g *Mamm. Gre-*
gor. 7. inter
Lanfranc. ep.
7. p. 304. &
apud Baron.
tom. 11. An.
1079. n. 25.
h Hoveden,
fol. 343. a. 19.
i Leg. Hen. 1.
cap. 5, 7. &
p. sibi ibidem.

farther then *s* they had gone would in nothing submit unto it: and as they had by their edicts guided the ecclesiastick affaires of this kingdome, so he proceeded in his lawes, *h* *à l'égibus sanctæ matris Ecclesiæ sumens exordium*, as did his sonne *i* Henry the 1. How far they did conceive this their power to extend in those matters, nothing can better teach us then the lawes they and such as came after them (princes against whom no exceptions can lye) establish, and usages they maintained as the rights of the Kingdome, in opposition of all encroachments whatsoever.

14. To enumerate all these Priviledges (I conceive them with our auncestors better called Rights) I hold impossible, the foundation or ground upon which they are built being that power the divine wisdom hath invested the secular Magistrate with, for preservation of his Church and people in peace, against all emergencies from whomsoever proceeding; as the Bishops of the Province of Canterbury writ to Thomas Becket 1167.

k *Apud Ho-*
ved fol. 292.
b. 5.

l *Rex à Domino constitutus paci providet subjectorum per omnia; ut hanc conservet Ecclesiis, & commissis sibi populis, dignitates Regibus ante se debitas & exhibitas sibi vult exhiberi.* And this issuing from so great auctority, as in effect the body of all the Clergy of the realm, cannot be imagined to be other then the constant opinion of th' English Church. In what these Rights have been put in practise in opposition to Rome (of which I now treat) may in some sort be told: but to say these they are, and no other, is that I mean cannot be. So that we may say the affirmative, *these they are*, but not the negative, *others they are not*. Therefore Eadmerus will have it of the Conquerour, that *l* *Cuncta divina simul & humana ejus nutum expectabant*, that is *in foro exteriori*; insomuch as, when the Clergy gave the King the title of *Head of the Church*, they intended no other then their fore-fathers, when they called

l *Eadmer. p. 6.*
21.

called him the ^m Defender, Patron, governor, ^a Tutor of it.

15. Which the French do attribute to their Kings with more hard expressions; ° *Ce que monstre* (says one) *que les evesques de ce temps la, estimerent le Roy, assiste de son conseil d'estat, estre apres Dieu Chef terrien de l'Esglise de son Royaume, & non pas le Pape, in the negative: Which another P explains thus, Ce n'est point pour cela que je vueille dire, ce que aucuns ont trop indistinctement proféré, que les dits Roys & Princes Souveraignes soient en leurs estats privativement à tous autres, Chefs uniques & absolus de l'Esglise, & de tous les ministres d'icelle; car pour le regard de ce que concerne le maniement des choses purement sacrees, come l'administration de la parole de Dieu, & des Sacrements, & la puissance de lier ou delier, voire de regler en particulier le dedans de chacune Esglise, la surintendance en appartient aux Evesques, & autres Chefs de la Hierarchie Ecclesiastique, a chascun selon leur rang & degré. Then shewing by a comparison, that as the head-Architect leaves to his inferior Agents the use of such instruments as are proper for their undertakings; so, il n'appartient point au Roy de manier les choses sacrees, ny supporter comme l'on dit l'arche d'alliance, ils doivent laisser cela a ceux de la vocation; mais ils peuvent voire sont tenuz devant Dieu, veiller sans cesse, & avoir l'oeil ouvert a ce que ceux de cest ordre & profession principale, aussi bien que ceux des autres moindres, apportent en loyause & sain conscience tout soin, diligence, pureté, & sincerité, au maniement des charges a eux commises, conformément a leur loix, regles & canons; lesquels au cas qu'ils serroient negligez, & effacez par la rouille de l'antiquité, ou que par la malice des hommes il fust besoin d'en faire des nouveaux, ils sont tenuz user de leur puissance, pour y apporter des remèdes, soit par leur Ordonances & pragmatiques, soit par leurs jugemens, arrests, & executions d'iceux. C'est ce qu'en France nos predecesseurs ont tousjours appelle, la police exterieure sur l'Esglise, de la quelle les Empereurs, Roys &*

P

Princes

m Mat. Paris
An. 1241. pag.
555. 15.
n Epist. Vni-
versit. Anglia
ibid. An. 1245.
pag. 607. 38.
ibidem.
o Claude Fau-
chet en les li-
beries de l'E-
glise Gallicane
in 4^o. à Paris
1612. avec
Privilege, p.
234. 1639.
p. 179.
p Charles le
Faye ibid. pag.
287. in edit.
1639. p. 230.

Princes ont use & jony sans contredit, tant que l'esglise s'est conservée en sa pureté, & qu' aucuns d' icelle ne se sont ingerez, sortants de leurs bornes & limites d' usurper les fonctions Royales. Infomuch as Benigne Ailetor doth not onely affirm their Kings to be *Chiefs, Prosecteurs, & Conservateurs de leur esglise Gallicane;* but pag. 657. recites a speech of th' Archbishop of Vienna made to Henry the 4. 1605. in which he did affirm, *que le Roy estoit le Coeur & La Tesse de l'nr corps.*

q du delict
commun p.
528. editionis
16:9.

26. Hen. 3.
cap. 1.
1. Eliz. cap. 1.

1 Stat. 3. & 4.
Ed. 6. cap. 11.
see before.
25. Hen. 8.
cap. 19.
27. Hen. 8.
cap. 15.
35. Hen. 8.
cap. 16.
* Councell.

in cap 7. n. 12.

16. And other *Headship* then this I do not know to have been ever attributed to any of our Princes: Certainly they did never take on them the exercise of any thing purely sacred, but as *supream* * *Head, Rulers or Governours*, under God, by their Commissioners (of which such as bare most sway were ever the *Spirituality*) to *visit, reform, redresse &c. all errours, Heresies, schisms, abuses, &c.* And for that the rust of antiquity (as that authour styles it) had much over-spread the Canons of the Church, * to assigne sixteen of the Clergy, whereof four to be Bishops, and as many of the Lay, of which four to be learned in the Common laws of this realme, to *peruse and examine th' ecclesiasticall laws of long time here used, and to gather, order and compile such laws ecclesiasticall, as shall be thought to his Majesty, his said * Councell, and them or the more part of them, to be practised and set forth within this realme.* In pursuance of which, the 11. November 5^{to} of Edward the 6. he nominated two Bishops, two Divines, two Doctours of the Law, two Esquires, to supervise the ecclesiastick laws of this Kingdome, and to compile such a body as were fit to be put in practise within his Dominions; whose intendments (for it past no further) were after printed by *John Day* 1571. and are no other then what the French (for the manner of doing) maintain their King might do: neither doth th' Inquisition of *Spain* publish any thing of that nature, without th' allowance of their King, as I shall shew hereafter.

17. So

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17. So that, in my opinion, the question cannot be, whether Princes are not capable of such a Right; but whether it were invested in the Crown formerly, and made good by such a continued practise, as might authorise ours to take that title (when offered by the Clergy 1530.) as well as the *French* Kings have, without in-croaching on that power th' ecclesiasticks had, and by our laws ought to exercise in *England*. Now, certain, our Kings did in many things go along with the *French* in causes ecclesiasticall: *x Rex Anglorum, exemplum accipiens ab illis Baronibus qui sua statuta sanxerunt in Francia, quibus & Dominus Francorum favorem jam prae-buit, & sigillum apposuit, &c.* *Clement* the 7. being held prisoner 1527. by th' Emperour, the 18th. of *August* Cardinall *Woolsey* made an agreement with the *French*, for setting th' ecclesiastick government of each Kingdome during the Popes captivity. For the *French*, I shall remit the reader to the Deed which is printed; but th' *English* were to be such as should be agreed to, *praelatis accitis de mandato & auctoritate predicti invictissimi Anglia Regis*, whose determinations were to be *consensu ejusdē invictissimi Anglia Regis*. But where *z* my Lord *Herbert* conceivs this to have been the first taste our King took in governing the Clergy, I can no way be of his opinion; for, without peradventure, the Cardinall neither did nor durst have moved one step in making the Ecclesiasticks lesse depend on the Papacy, then the Common law or custome of the realm warranted, knowing he must without that back have lost not onely *Clement* the 7. but all Popes and the Court of *Rome*, which must and had been his support, on the declining favour of so heady and dangerous a Prince as *Henry* the 8th. had he not cast off both the Cardinall and his obedience to that See almost together. But how much he had the Clergy before this under his government, the History of *a Richard Hunne* is witness sufficient: and the rights the Conquerour and his successors

x Mat. Paris
Anno 1247.
p. 727, 26.

y Preuves des
libertes de l'es-
glise Gallicane,
cap. 20 n. 33,
p. 529.

z Hist. Hen. 8.
p. 219.

a See Hall
6. Hen. 8.

were ever in contest with the Papacy about, and maintained as the laws & customs of the Realm, enough shew they did not command th' Ecclesiasticks here according to the will of any forraign potentate, nor were meer lookers on, whilst another govern'd the *English Church*; some of which I shall therefore here set down.

I. They^b admitted none to be taken for Pope but by the Kings appointment.

II. ^c None to receive letters from him without shewing them to the King, who caused all words prejudiciall to him or his crown to be renounced by the bringers, or receivers of them.

III. ^d Permitted no counsels, but by their liking, to assemble; which gained the name of convocations; as *that e alwayes hath been and ought to be assembled by the Kings writ.*

IV. ^f Caused some to sit in them might supervise the actions, and *l gato ex parte Regis & regni inhiherent, ne ibi contra Regiam coronam & dignitatem aliquid statuere attentaret*: and when any did otherwise, he was forced to retract that he had done, as ^g did Peckham; or were ^h in *paucis servatae*, as those of Boniface.

V. ⁱ Suffered no Synodicall decree to be of force, but by their allowance and confirmation. ^k *Rex auditis concilii gestis, consensum praeiuit, auctoritate regia & potestate concessit & confirmavit statuta concilii à Gulielmo, Cantuariensi Archiepiscopo, & sancta Romana ecclesia legato, apud Westmonasterium celebrati.* ^l *In hoc concilio, ad emendationem ecclesiae Anglicanae, assensu Domini Regis & primorum omnium regni, hac subscripta promulgata sunt capitula, &c.*

VI. Permitted no Bishop to ^m excommunicate, or inflict any ecclesiastick censure on any Baron or Officer, *nisi ejus praecepto.*

VII. ⁿ Caused the Bishops appear in their Courts, to give account why they excommunicated the subject.

VIII. ^o Caused

^b Eadmer p. 6, 26. *Vide epist. Hen.*

Critchley in vita ejus, edit. 1617. p. 77, 78.

^c Eadmer. *ibid.* & pag. 113, 1.

Thorn, col.

2152, 1. &

2194, 18. &

alibi. Cook

Inst. 3. p. 127.

^d Eadmer.

p. 24. 5. 11.

^e Stat. 25.

Hen. 8. cap. 19.

^f Mar. Paris

Anno 1237.

p. 447, 51.

^g *Vide Seld.*

de Synedriis

part. 1. p. 373.

^h Lyndwood

de foro compe-

temi. cap. 1.

Gloss. 1.

ⁱ Eadmer.

p. 6, 29.

^k Flor. Wi-

gorn. Anno

1127. p. 505.

^l Gervas.

Dorobertn.

Anno 1175.

col. 1429, 18.

^m Eadmer.

p. 6. 31.

ⁿ M. Paris

Addicament.

p. 200. num. 7.

See Articuli

cleri 9. Ed. 2.

cap. 7.

VIII. ° Caused such as were imprisoned, after fourty dayes standing excommunicate, to be freed by writ, without th' assent of the Prelat, or satisfaction giving; p the King and his Iudges communicating with them *in divinis quam profanis*, q and commanding none to shun them, though by the Ordinary denounced excommunicate.

IX. * Suffered no Legat enter *England* but with their leave; of which before.

X. † Determined matters of Episcopacy, *inconsulto Romano Pontifice*.

XI. Permitted no Appeal to *Rome*; of which before.

XII. ‡ Bestowed Bishopricks on such as they liked, and u translated Bishops from one See to another.

XIII. Erected new Bishopricks: so did *Hen.* the 1. 1109. *Ely*, taking it out of *Lincolne*, x *Carlisle* 1133. out of *York* or rather *Duresme*: but of this before.

XIV. † Commanded by writ their Bishops to residency.

XV. ‡ Commanded their Bishops, by reason of Schism, vacancie of the Popedom, &c. not to seek confirmation from *Rome*, but the Metropolitan to be charged by the Kings writ to bestow it on the elected.

XVI. § Placed by a lay hand Clerks in Prebendary or Parochiall Churches, *Ordinariis penitus irrequisitis*. And it is not here unworthy the remembring, that *VVm Lyndwood*, a very learned Canonist, who writ about an 100. yeares before *Henry* the 8ths difference with *Clement* the 7. finding the Crown in possession of this particular not agreeing with the rules of the Canon law, is so perplexed, as in the end he finds no way to make the act valid, b but that he doth it by Papall privilege: For if by prescription, *Episcopo sciente & tolerante*, it could not be good; for though the King might confer the temporalls of the Church, *non tamen potest dare jure suo potestatem circa spiritualia, viz. circa ea quæ pertinent ad regimē*

o *ibid.* n. 10.

p *ibid.* n. 12.

q *ibid.* n. 13.

r Eadmer.

p. 58, 40. p.

113, 1. p. 110.

28.

f Eadmer.

p. 115, 23, 31.

r Flor. Wi-

gorn. Anno

1070. p. 536.

Hunt. fol.

219. a. 1.

u Eadmer.

p. 95. Flor.

Wigorn. Anno

1109.

x Johannes

Hagultad.

col. 257, 48.

y Vide Cook

Instit. 2. p.

625.

z Ret. Parl.

16. March

3. Hen. 5. n. 11.

Anno 1414.

10. u 23. Pope.

a Mat. Paris

Addament.

p. 200. n. 6.

b De cohabitatione Clericorum & Mulierum, cap. 1.

ad verbum

Beneficiati,

fol. 64. b.

men ecclesiasticum, & ministracionem sacramentorum & sacramentalium, nec non circa ecclesiastica jurisdictionis exercitium, & hujusmodi, quæ jure spiritualia sunt; nec in hoc casu potest sibi prodesse præscriptio etiam longissimi temporis, quia talia spiritualia non possunt per regem possideri, & per consequens, nec ut transeant sub sua potestate possunt præscribi, nec consuetudine introduci, &c. In which he will have an hard contest with divers French and Italians, who maintain, *c* *Che tutte le ragioni che si possono acquistare per dispensa del Papa, si possono acquistar anco per consuetudine, la quale sopravenga contraria alla legge:* that a prince may prescribe for such acts as he can acquire by the Popes dispensation.

c Considerationi di Padre Paolo Venet.

1606. fol. 31.

a. vide Fulgentio in disjuncta d'esi, p. 312. & sequenti.

d Mat. Paris Additament. p. 200, n. 9.

& in historia majori p. 716.

7. vide Sclden. de Synedrion part. I. c. 10. p. 383.

e Mat. Paris Additament. p. 202, n. 30.

XVII. *d* Prohibited the Lay yielding obedience, or answering by Oath to their Ecclesiastick superiour inquiring *de peccatis subditorum*: which I take to have been in cases not properly of their cognizance, not of witnesses either in causes Matrimoniall or Testamentary.

XVIII. I shall conclude these particulars with one observation in *Mat. Paris*; where the Ecclesiasticks, having enumerated severall cases in which they held themselves hardly dealt with, adde, *c* *That in all of them, if the spirituall Iudge proceeded contrary to the Kings prohibition, he was attached, &c, appearing before the Iustices, constrained to produce his proceedings, that they might determine to which court the cause belonged: and if found to pertain to the secular, the spirituall Iudges were blamed, and, on confession they had proceeded after the prohibition, were amerced; but denying it, were compell'd to make it good by the testimony of two *vile Varlets, but refusing such purgation, were imprisoned, till by oath they freed themselves to the Iustices; that being cleared even by the Lay, they had no satisfaction for their expence and trouble. By which, by the way, it is manifest how much the Kings Courts had the superintendency over the Ecclesiastick.*

* Vilissimi ribaldi.

18. These,

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18. To use, and many other particulars of the like nature, daily exercised, notwithstanding the clamour of some Ecclesiasticks, more affecting their own party then the rights of the Crown, make there can be no scruple, but the English did ever understand the outward policy of this Church, or government of it *in foro exteriori*, to have much depended on the King; and therefore the writs for summoning Parliaments, expresse the cause of his calling them to be, *pro quibusdam arduis, urgentibus negotiis, nos, statum, & defensionem regni nostri Anglia & ecclesia Anglicana concernentibus*, .i. or, as our Bishops have sometimes exprest it in the Rolls of Parliament, *à l'onour & reverence de Dieu & de seinte esglise, & al salvation & amendement de son roialme*, &c. Likewise the Commons, that their gift of the 9th sheaf, &c. to *Edw.* the 3. to have been for his defence of the Kingdome, *& de seinte esglise d' Engleterre*: Rot. Parliament. 15. *Ed.* 3. n. 25. According to which our Kings joyned both together, professing their care for amending the Church to be equall with that of the Commonwealth.

Item fait assavoir, que nostre tressoveraigne seign^r le Roy, eiantz grande volonte & desir de l'estate de son esglise, & de son Royalme, en les choses ou mestier est d' amendement, al honor de Dieu, & pur la pees & la commune profit de seinte esglise d' Engleterre, come de tout son Royalme, d'el' advis & assent des seign^rs esperituells, &c. ad fait, &c. In pursuance of which interest residing in the Crown, the Lords and Commons under *Rich.* the 2. fearing the opinions called *Lollardy* might prevail, & *petierunt à Rege de istis remedium apponi, ne sorte archa totius fidei ecclesia talibus impulsionebus in illius temporibus, pro defectu gubernaculi, irremediabiliter quateretur*. Upon whose desires, he commanded th^e Archbishop of Cant. and his other Bishops, *ut officium suum singuli in suis diœcesibus secundum jura canonica acrius & ferventius exerceant, delinquentes castigarent, librosque eorum Anglicos*.

.i. Evêque
d' Excestre
chancelier.
Rot. Parl.
20. Ric. 2. n. 11.

1 Rot. Parl.
at Leicester
2. Hen. 5. n.
10.

g Hen.
Knighton
col. 2708. 40.
Anno 1387.

glicos.

Rot. Parl.
2. Hen. 4. n.
47.

cap. hoc, n. 6.

glicos plenius examinarent, errata exterminarent, populumque in unitatem fidei orthodoxa reducere studerent, ecclesiamque urtiseis, [&] vepribus desolatam liliis & rosis ornarent, &c. After which, the said authour records a Commission, by which his Majesty, as *Defender* of the Catholick Faith, did impower certain to seize upon hereticall books, and bring them before his council: and such as after proclamation shall be found to hold such opinions, being called and examined before two Commissioners (who were of the Clergy) and lawfully convicted thereof, to be by his Majesties ministers committed to the next prison. ∴ Fourteen years after which, the Commons shew *Hen.* the 4th the Parliament might be compared to a Masse, in which th' Archbishop of *Cant.* began th' office, reading th' Epistle and expounding the Gospel, (which, it seems, they took to be the part of the Ecclesiastick, as did the ∴ *Saxons* before) & à la mesme que feust la sacrifice d' estre offertz à Dieux par touz Chrestiens, le Roy mesmes à cest Parlement, pour accomplir celle mesme, plusieurs foitz avoit declarez pleinement a toutz ses lieges, coment sa volonte feust, que la foy de saint esglise feust gouvernez en maniere come il' ad este en temps de ses nobles progenitors, & come il est affirme par saint esglise, par les saints Doctours, & par saint Escriure, &c. and a little after, shewing they the Commons were onely to say, *Deo gratias*, which they were obliged to do for three reasons, the second of which is, *pur ceo que la ou la Foy de saint esglise, par malvaise doctrine, feust en point d' avoir este anientz, en grand subversion du Roy & du Royalme, mesme nostre Saigz, le Roy ent ad fait & ordeignez bon & joust remede, en destruction de tiel doctrine, & de la seint d' ycel, perons ilz sont ensement tenuz de dire cel parole Deo gratias.* By all these it must be granted, they did hold the chief care of the *English* Church to have depended (in the outward policy of it) on the prince; or else that they did speak and do very unadvisedly in attributing

buting so much unto his care of it, and providing that he might be supplied to defend it, without at all mentioning any other to whose care it belonged.

19. Neither did these expressions and petitions passe the Commons onely, or the Clergy over-ruled by the numbers of the temporality; but the Bishops by themselves acknowledged how much it stood in his M^{ties} care to provide against any novelties creeping into the English Church, and that it might enjoy the rights and liberties belonging to it: and therefore, when the said doctrine of Lollardy continued encreasing, they, in the names *Prælatorum & cleri regni Angliæ*, petitioned Henry the 4th. *Quatenus --- inclitissimorum progenitorum & antecessorum vestrorum laudabilia vestigia graciosè considerantes, dignetur vestra regia celsitudo pro conservatione dictæ Ecclesiæ Anglicanæ, ad Dei laudem, vestrique meritum, & totius regni prædicti prosperitatem & honorem, & pro hujusmodi dissensionibus, divisionibus, dampnis & periculis evitandis, super novitatibus & excessibus prædictis in præsenti Parlamento providere de remedio opportuno &c.* Did not these then hold it the office of the King, as that his progenitors had ever done, to provide, no dissensions, scandalls, divisions might arise in the Church, the Catholick faith might be truly conserved and sustained? and what other did any of our Princes ever challenge or assume?

h Rot. Parl.
2. H. 4. n. 42.

20. When the Clergy likewise went at any time beyond their bounds, or were negligent performers of their duties, the subject upon all occasions had recourse unto his M^{ty}. as to whose care the seeing what was amiss redrest did especially belong: as 1 when th^e Ecclesiastick Courts were grievous for the fees, & for their pecuniary penances too heavy, when they were oppress'd by Papall provisions (of which before) when through the absence of their Curat they were not so well taught &c. . . when

i Rot. Parl. 50.
Ed. 3. n. 84.
1 R. 2. n. 108.
k Rot. Parl.
O. Rev. Purif.
25. Ed. 3.
n. 35.
l Rot. Parl.
O. Rev. Purif.
25. Ed. 3.
n. 37.

Q

the

Rot. Parl.
at Lecester
2. Hen. 5. pet.
des Cōes. 5.
vide Rot. Parl.
40. Ed. 3. n.
30. 37. n. 41.
42.

the frequency of the writ de excommunicato capiendo made it burthensome, when men were cited by them on causes neither Matrimoniall nor Testamentary, and appearing were not allowed a copy of the libell against them. In which case the Kings answer is not unworthy the repeating, shewing clearly, he directed how they should proceed; *le Roy vout que a quel beure la copie de le libelest grantable par la ley, q. il soit graunie & livrer a la partie sanz d'ffculie.* It is true, Kings would refer matters of that nature to their Bishops, unto whose care under them it did especially belong: so Richard the 2. being petitioned in point of Residency, answered,

1 Rot. Parl.
17. Ric. 2.
n. 47.
m Rot. Parl.
7. H. 4. n. 114.

Il appartient aux offices des Evesques, & le Roy vout qu'ils facent leur office & devoirs &c. His successor being again prest in the same kind, gives his command thus, *Facent les Ordinaires leur office & devoirs: & per cause que les pluralites q'ont este grantees devant ces heures sont & ont este la greindre cause de l'absence des tiels curass, y plest au Roy nostre Seigr. del' advis & assent des Seigr. en Parlement, escrire par ses honorables lettres a nostre seigneur le Pape, de revoke & repeller toutes les pluralites generalement, & que d'es ore en avant nulle pluralite soit grauntee a aucun en temps a venir.* But the Pope, it seems,

n Rot. Parl.
11 Hen. 4.
n. 70.

giving no satisfaction in the particular, the 11. Hen. 4. the Commons again petition, That the riches of the kingdome being in the hands of Church-men, those livings upon which the incumbent of common right ought to reside, half of the true value should remain to himself, but the other to the King. To which the answer is, *Ceste matiere appartient a seinte Esglise, & quant a la residence, remede ent fust purveu en la darrain Convocation.* Yet this matter of non-residence still molesting the Commonwealth, 3. Hen. 6. the King tells them, by th' advise of the Lords of Parliament, *He had delivered their bill to my Lord of Canterbury, charging him to pourvey of remedy for his Province, and semblably shall*

o Rot. Parl.
3. Hen. 6.
n. 37. 38. vide
4. Hen. 6. n. 38.

write

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write to the Church of York for that Province. By which we may see the King, Archbishop, and Convocation did conceive themselves to have a power of redressing things in this Church, which yet in civility they thought fit first to acquaint the Pope with, as a spirituall Doctor or Parriarch, however of great esteem, yet not endued with a power of commanding in this Church otherwise then the lawes of the Kingdome, the contracts with the Papacy did bear.

21. Now it cannot be doubted that all these petitions of the Commons, and sundry more which may be produced, had been by them vainly prefer'd, had they not taken the King to have been vested with a power of redressing things blameable in the government of the Church. But when we say the Prince, as the principall, without whom nothing is done, may be rightly termed *Head* in the act of reformation; our meaning is not, that he will deal in points of Ecclesiastick cognizance without the advise of his Bishops, and other learned of the Clergy: we know, in things proper *9 Iosuah* is to take counsell of *Eleezer*, and the Kings of this nation have ever done so.

22. When *Edgar* intended the advancing *Christi gloriam*, he chose him three Bishops to be his *patres spirituales* and *consiliarios*. But to speak of later times: when the Commons endeavoured a reformation of some things in the Church, *Hen.* the 8th would not answer their desires, till he had first acquainted the Spirituality. When he intended to publish a book of the principall articles and points of our faith, with the declaration of other expedient points, and also for the lawfull rites and ceremonies to be observed within this realme, he ordained to be by the Archbishopps and sundry Bishops of both Provinces, and also a great number of the best learned, honestest, and most vertuous sort of Doctors of Divinity, men of discretion, judgement, and good disposition, &c. And *Ed-*

Barth. 207
p. 300
n. 24, 19
p. 300
p. 300

q. Numbers
xxvii. 21

Concil.
Spelm p. 433.

r. Hall 23.
Hen. 8. fol.
202. b. 24.
Hen. 8. fol.
205. a. Hes.
bert p. 329.
153.
Stat. 3. H. 8.
cap. 16.

1 Fox. A. B. and
Monuments,
tom. 2. p. 63. B.
col. 1. & pag.
639. col. 2.
2 Statut. 2. c.
3. Ed. 6. cap. 1.

ward the sixth minding a farther reformation of some usages in the administration of the Eucharist, he caused it to be made by the most grave and learned of his realm, for that purpose by his directions assembled at Windsor; who afterwards, for taking away divers and sundry differing forms and fashions had formerly been used in sundry Churches of England and Wales, appointed the Archbishop of Canterbury, and certain of the most learned and discreet Bishops, and other learned men of the realm, to consider of the premises, who, by the aid of the Holy Ghost, with one uniform agreement concluded on and set forth the book of Common prayer &c. Upon which the two houses of Parliament, considering as well the most godly travell of the Kings highnesse, — in gathering and collecting the said Archbishops, Bishops and learned men together, as &c. do give to his Highnesse most hearty and lowly thanks &c. So that it is apparent, the King, in composing this book, did not assume to himself, or the Parliament attribute unto him any other then assembling of the Bishops and other learned men together, to take their consultations.

x Preface to
the book of Ed.
the 6. 1. 49.

y Mart. Paris
vit. Abbat.
3 Albani, p.
101, 17, 19.
p. 123, 23.
3 Agobardi
opera, Paris
1605. p. 392.
4 Harpsfield
Hist Anglican.
Eccles. scilicet.
cap. 19 p. 251,
43.

23. And they observing the great diversity in saying and singing in severall Churches, the difficulty of finding what was proper for each day, (apt to breed confusion) reduced the publick service of the Church to one form more facile and of better edification, following therein the examples of divers holy Bishops and others: for if Guarinus Abbot of St Albans, in the Office used in his Church about 1190, might *superflua rescare*, to reduce the prayers there to one form, if Agobardus in France might *amputare superflua vel levia* &c. if Osmund Bishop of Salisbury in England, *quoniam singula fere Diaceses in statibus precariis hanc ducendis variabant, ad hanc varietatem reducant, & ut quasi absolutum quoddam precandi, quod omnes uti possent, exemplar esset, eas in eum fere ordinem & commodam rationem, quam hodie omnes prope Angliæ, Cambriæ, & Hiberniæ* (viz.

(viz, the Court of Salisbury) *Ecclesia sequatur, magno & prudentis rerum ex sacris scripturis, & probatis Ecclesie Historiis delectu, distribuit & digessit*; if these, I say, might do it on their own motion, there is no question, such of the Clergy as were appointed by the King, might on his desire take it into consideration, and remove matters offensive, or lesse to edification.

24. Neither did Queen Elizabeth at the beginning of her reign ^b alter some passages in it, but by the opinions of Divines *eruditiss & moderatiss*; to whom was added a learned Knight *Jo. Thomas Smith*, to whose care the supervising of it had by the house of Commons been committed the second of Edward the sixth, and therefore knew better then any other to give an account of that book.

^b Camden.
Annales Eliz.

Nor did her self, or the house of Lords use differing wayes, when the Commons at other times have sought some change in the Ecclesiastick government; as the 23. and 27. of her reign, where though the Lord Treasurer made a short beginning, yet he left the satisfactory answers to be given them by th' Archbishop of York.

^c *Journ. des
Ces 23. Eliz.
March 3. & 7.
& 27. Eliz.
Februar. 25.*

Insomuch as we may safely conclude, when the Clergy in Convocation styled Henry the 8th *Ecclesia Anglicana protectorem unicum, & supremum dominum*, & quantum per Christi leges licet, *supremum caput*, they added nothing new unto him but a title; for he and his successors after it, did never exercise any authority in causes Ecclesiastick, nor warranted by the practise of former Kings of the nation.

By all which the second question remains sufficiently proved, that our Kings were originally endued with authority to cause the English Church be reformed by th' advice of their Bishops, and other of the Clergy, as agreeing with the practise of all ages. For who introduced the opinion of Transubstantiation? made it an article of Faith? barr'd the Lay of the Cup? Priests of mar-

alantibus

Q 3

riage

riage? who restored the Mass in Queen *Maries* dayes before any reconciliation made with *Rome*? but the Ecclesiasticks of this Kingdome under the Prince for the time being, who commanded or connived at it.

C H A P. VI.

How the Kings of England proceeded in their separation from Rome.

IT being by what is already said undoubted, the Clergy called together by the Prince, or meeting by his allowance, have ever had a power of reforming this Church, commanding things *juris positivi* in it, and likewise dispensing with them, and that the statute 24. *Hen. 8. cap. 12.* that saith in effect as much, is no other then a declaration of the Common law, that is the custome of the realm; the next enquiry will be, for acquitting the Church of *England* in point of schism, how this separation from *Rome* was made.

2. *Henry* the 8th having long pursued a cause Matrimoniall with *Clement* the 7. who shewed so much compliance to determine it in his favour, as he sent Cardinall *Campeius* hither to joyn with *Wolsey* the Kings creature in the businesse, and upon the Emperours successe in *Italy*, the cause, after many delayes, being revoked to *Rome*, the King, upon the opinions of many foreign Divines of the invalidity of his marriage with Queen *Katharine*, caused the case to be determined by the *English* Church: which judgement yet he would have in some measure submitted to the Court of *Rome*, so as he might have given the persons to whom it was delegated by the Pope full information, and the

Cardinals

Cardinals of the Imperiall faction excluded having any part in the decision. But *Clement* hearing what had past in *England*, with more then ordinary hast determines the cause against him; which how much it would irritate any Prince of so great power, and so high a spirit as our *Henry*, I shall leave others to judge. And here I might alledge many forreign examples, of those who upon lesse indignities have stopt all entercourse with *Rome*, as * *Lewis* the 12. and *Henry* the 2. of *France*, if I had undertook to write an apology for him.

3. The King, upon the advertisement of these proceedings by the Pope, which was at the beginning of the year 1534, falls first to those courses his auncestors had formerly done, when they had occasion to know how they ought to comport themselves in any thing towards *Rome*, which was to have the advise of the *English* Church; and thereupon wrote to the Universities, great Monasteries and Churches of the Kingdome, & the 18. May 1534. to the University of *Oxford*, requiring them, like men of virtue and profound literature, to diligently treat, examine, and discusse a certain question. viz. An Romanus Episcopus habeat maiorem aliquam jurisdictionem sibi collatam in sacra Scriptura in hoc regno Angliæ, quam alius quivis externus Episcopus; and to return their opinion in writing under their common seal, according to the meer and sincere truth of the same, &c. To which, after mature deliberation, and examination not onely of the places of holy Scripture, but of the best interpreters, for many dayes, they returned answer the 27. June 1534. (without all peradventure according to the ancient tenor of the *English*) Romanum Episcopum maiorem aliquam jurisdictionem non habere sibi à Deo collatam in sacra Scriptura in hoc regno Angliæ, quam alium quovis externum Episcopum. Of this answer I have thought fit to make particular mention, (though assented to by all the *English* Clergy) because *Oxford* hath been

* Whose coin is yet extant, having on one side his picture, and an inscription shewing him to be King of France and Naples, on the other the armes of France, and these words, Perdam Babylonis nommen. Thianus lib. 1. p. 11. c. † In archivis Oxon. ad Annum 1534. p. 127. &c.

a Mat. Paris
Anno 1252.
p. 859, 3. &
Anno 1257.
p. 945, 28.
b Rot. Parl.
1. Hen. 6. n.
43.

c Hen. Knighton
col. 2671,
24. col. 2742,
23.

d Walling-
Hist. Anno
1408. p. 420,
8.

e In fasciculo
quingentorum
Ms. in bibli-
otheca Archie-
piscopi Arma-
chani.

f Circa mate-
riam excom-
municationum
resolutio, confi-
derat. II. 10. 2.
col. 349. a. Ed.
Paris 1606.

ever^a held *annula Parisiensis, Ecclesia fundamentum,*
^b *fountain & More de nostre foy Chrestienne*, as I former-
ly touched: whose opinion the English Church hath
therefore highly esteemed, and sought on all occasions
of this nature, of which to give some examples.

4. Upon the election of Urban the 6. France, Scotland,
Flanders, and divers other parts adhering to Clement,
who resided at Avignon, the French King 1395. cau-
sed a meeting of the Clergy of his dominions, to search
whether had the better right to the Papacy: whose judg-
ment was for Clement; which under the seal of the U-
niversity of Paris was sent to Richard the 2. who there-
upon *fecit convocationem Oxonia de peritioribus Theolo-
gis tam regentibus quam non regentibus totius regni*, and
they on the contrary judged Urban to have the better ti-
tle; whose opinion under the seal of the University of
Oxford returned to the King was by him transmitted into
France. 1408, ^d *in Concilio Cleri celebrato Londoniis, as-
sistentibus doctoribus Universitatum Cantabrigie & Oxo-
nia, tractatum est de censu & obedientia Papa subtrahendis
vel non subtrahendis*: about which time twelve of the U-
niversity of Oxford, on the Archbishops desire, in the name
of the rest, examined the books & Doctrines of Wickliffe,
& sent their resolutions to a Synod at London in an epistle
yet^e extant. By all which it is manifest, how much their
opinions were esteemed in this Kingdome. And I hold
it undoubted, a Prince following so great advise, chalk-
ed out to him by the practise of his ancestors, could not
be guilty of so heinous a crime as schism, arising onely
from disobedience to any spirituall superior whatsoever.

^f Gerson sayes, a private person runs into no contempt
of the Keyes in divers cases by him enumerated; as one,
*dum dicit aliquis juristarum vel theologorum juxta consci-
entiam suam, quod hujusmodi sententia non sunt timenda
vel tenenda, & hoc praesertim si observetur informatio seu
cautela debita, ne sequatur scandalum pusillorum, qui asti-*
mant

manus Papam esse unum Deum: And Navar, the greatest Canonist of his time, & qui unius doctoris eruditione ac animi pietate celebris auctoritate ductus feceris, aliquid excusatur, etiamsi forte id non esset justum, & alii contrarium tenerent. And to this purpose many more Doctors may be alledged.

2 Navar. cap. cum contingat de Rescript. remed. 2. n. 30.
10. 2. editionis Colon. Anno 1616. p. 59.
col. 1. §. 1000.

5. This as it was done by him, so he was led unto it by the example of his predecessors, as I have partly toucht before; and shall therefore alledge no other, but that in the disputes between *Becket* and *Henry* the 2. the Archbishop endeavouring to interesse *Alexander* the 3. in the difference, that Prince ^b caused it to be written unto him; *Sijuri vestro vel honori prajudicatur in aliquo, id se totius Ecclesie regni sui consilio correcturum in proximo pollicetur:* and a little after, *Domini Rex plurimum sibi justificare videtur, cum in omnibus quadiſta sunt, Ecclesia regni sui consilio simul & iudicio se pariturum pollicetur.* And this the often repeating of it, not onely in a particular letter of the Bishop of London, but of all the Bishops of the Province of *Canterbury*, both to the ^k Pope and *Becket*, enough assure us how undoubted it was in those dayes, that our Kings following the advise of the *English* Church, did proceed on safe grounds for their justification in such quarrells.

b Hoveden
Anno 1166.
fol. 287. b. 43.
i. ibid. fol. 284.
8.

k Apud Hoveden fol. 292.
b. 11. 49.
293. a. 33.

6. Neither was the opinion returned by these Divines so differing from the writings of other learned men, as might make them any way guilty of schism. ⁱ *Gerson* speaking of the severall degrees of Divine truths, places for the first such as are expresse in Scripture, secondly those that are by evident consequence deduced from thence, thirdly such as being delivered by *Christ*, have been by the constant tradition of the Church derived to us, of which he holds this proposition, *Universalis Ecclesia Pontifici Romano subjecta sit;* and adds, *non animi posset evidenter aut per consequentiam pure de fide ex legibus primi generis humana deductione fulciri, &c.* and

i Gerson de vita spiritali anime cord. 74.
10. 3. col. 183.
b. c.

• Cont. de
potestate Pon-
tificis ad Ni-
cholaum Tera-
polum.

• Contarenius, in a small tract *de potestate Pontificis*, of that question sayes, *An Auctoritas illa & potestas, qua Pontifex maximus fungitur, sit ei consensu quodam hominis tributa, an potius divinitus tradita; qua de re hisce temporibus maximos tumultus excitatos esse perspicimus, nec etiam veriti sint viri in omni disciplinarum genere celebres, ac in Christiana Theologia studio illustres, in magno hominum conventu asserere, hoc jus Pontificis humanum esse; & then adds that he ab horum hominum sententia maxime dissentire, ac prope compertum habere, divinitus concessum esse Pontifici jus illud &c.* So that this learned Cardinall was not altogether resolved in the point, but as a disputable question had it *prope compertum*. The truth of which I leave him to dispute with the Orientall Christians. It is manifest, * Francis the first was of the contrary judgement; and our Countryman * Stapleton delivers it as a Catholick tenet of former times, (undoubtedly agreeing with that of the English Church) *non divino, sed humano jure, & positivis ecclesie decretis primatum Romani Pontificis niti &c.*

m Sleidan lib.
9. *prope finem*.
n Staplet. *de*
principiis fidei
lib. 13. cap. 15.
§. *Dixeram.*

* Hen. the viii.

o Stat. 26.
Hen. 8. cap. 1.
began the 3.
November and
ended the 18.
December
1533.

7. But I return to our * King, who now fortified by the opinion of the Universities, publick disputations in the convocation, and severall precedents of former Princes his predecessors, in his rights, whereas the Parliament before in some particulars restrained the profits of Rome, as in the payments of *Annates, Peter-pence, making Appeals* to it, whose beginnings with us I have formerly noted, did o the 26. Hen. 8. 1533, declare *his May, his heirs and successors, Kings of this realm, shall have full power & authority from tyme to tyme to visit, repress, redresse, &c. all such errors, heresies, abuses, &c. which by any manner spirituall authority or jurisdiction may be lawfully reformed, repressed, ordered, redressed, &c.* This the Court of Rome interpreted a falling off from the Church, and the English no other then a declaration of that right had ever resided in the Crown, and which I believe it will be a difficult task to disprove them in.

8. For

8. For those two articles *Paulus* 3. accuses the King of, as Hereticall and schismaticall, viz. *quod Romanus Pontifex caput ecclesia & Christi vicarius nan erat, & quod ipse in Anglica ecclesia supremum caput exisibat &c.* for the first, I never heard it affirmed by the King in that generality the words import; for the Pope is a temporall prince, as well as a spirituall father; and so far as I know he never denied him to be the head of the Church of his own dominions, nor of *France* and *Spain* &c. if those Kingdomes will admit him to so great a preeminence: the thing he onely stood upon is, that he was not so instituted by Christ Universall Bishop, and had alone from him such an omnipotency of power, as made him absolute Monarch in effect of the universall Church, and was so in *England*. For his being vicar of *Christ* in that sense other Bishops may be said to be his vicegerents, (as before) I do not see how it can be well denied him; but that this Vicarship did import the giving him that power he did then exercise here, is what the Church of *England* hath ever constantly denied. As for the Kings being Head of the Church, I have before shewed he neither took it, nor the Parliament gave it, in other sense then the *French* have alwayes attributed it to their Princes: neither for ought I find was it so much sought by King *Henry*, as prest on him by the Clergy, of which the Bishop of *Rocheſter* was one that subscribed to it; and his Ancestors did the same things before, he did after, under the names of *Protectors*, *Tutors*, *Christi vicarii*, *Dominus Agricola*, &c.

9. For the other particulars mentioned in the Bull, as his beheading the Bishop or Cardinall of *Rocheſter*, the burning of *Becket's* bones, the taking the treasure and ornaments at his Shrine, to which may be added the suppressing, and converting into Lay hands the Monasteries of the Kingdome, I shall not say much, having not taken on me to defend that Princes actions. Yet for the

R. 2

taking

p *Bula Pauli*
3. in *Bullario*
dat. 17. *Januarii*
1538.

q *Cap. 3. §. 72.*

∴ *Concil.*
Spelm. p. 437.
cap. 7. §. 8. Feld.
notis ad Rad-
mer. p. 175. 79
17.

1. Rot. Parl.
 fol. 8. Hillair
 21. Ed. 3. n. 69.
 petitions de
 Clergy.

f Flor. Wi-
 gorn. Anno
 1070.
 1 Neubrigen-
 sis lib. 4. cap.
 38.
 2 Hoveden.
 Anno 1198.
 fol. 444. a 8.
 3 Wallingh.
 anno 1296. p.
 29, 24.
 4 Gervas.
 Dorobern.
 cap. 1554. 44.

taking off the head of *Rocheſter* (if he were convict of treaſon) I muſt give the answer * of *Edward* the 3. to the Clergy in that kind, *en droit de Clerks conviſtz de treaſon; purceo qe le Roy, & touz ſes progenitors eunt eſte ſeiſis intemps de faire jugement & execution de Clercz conviſtz de treſon devers le Roy & ſa Royale Mageſte, come de droit de la corone, ſi eſt avis au Roy, qe la ley en tien cas ne ſe poeſt changer*: and then he cannot be ſaid to have dyed otherwiſe then by law. As for the goods and ornaments of Churches by him layd hold on, it is certain, his predeceſſors in their extremities had ſhew'd him the way; as the 1 Conquerour, who took all the ready money was found in Religious houſes; 1 *Richard* the firſt, who took all, to the very Chaliceſ of Churches, and yet th' Archbiſhop afterwards 2 *regio munimine ſeptus — univerſas monachorum* (to wit, of *Chriſt Church*) *redditis & oblationes tumba beati martyris Thomæ fecit ſaiſiari in manu Regis*; 3 and *Edward* the firſt 1296, *fecit omnia regni monaſteria perſcrutari, & pecuniam inventam Londonias apportari, fecitque lanas & corias arreſtari, &c.* And in thoſe dayes Biſhops did tell Kings, 4 *Theſaurus eccleſie veſter eſt, nec abſque veſtra conſcientia debuit amoveri*: to which the King, *verum eſt, Theſaurus noſter eſt ad deſenſionem terra contra hoſtes peregrinos &c.* And perhaps it would be no hard labour to ſhew, all Princes, not onely here, but elſewhere, to have had (how juſtly I will not determine) a like perſuaſion. And he then being excommunicated by *Paulus* 3. for maintaining what the Crown had ever been in poſſeſſion of, can no way be ſaid to have departed from the Church; but the Pope to have injuriouſly proceeded againſt him, who maintained onely the juſt rights and liberties of his kingdom, according to his coronation oath.

10. And this is the caſe, and fully answers (ſo far as it appears to me) whatſoever can be objected againſt the reformation begun by him, or made more perfect by

Edward!

Edward the 6. for the manner of doing it, viz. that they, as supreme Princes of this Kingdome, had a right to call together their own Clergy, and with their advise, to see the Church reformed by them. And if otherwise, I should desire to know how the Masse without any intermission was restored by Queen Mary: for it is manifest, she returned the use of it immediately after her brothers death, & yet Cardinall Pool reconciled not this Kingdome to Rome till the 30th of November above a year after, and then too * on such condicions onely as the Parliament approved; during which space, she as Queen gave * directions to the Ordinaries how they should carry themselves in severall particulars; which as it is probable she did by th' advice of her Bishops, so there is no reason to condemn the like proceedings in Edward the 6.

* Stat. 1. 2. P.
 & Mar. cap.
 2.
 a See Fox,
 vol. 3. p. 38.


11. I have before shewed how far the royal power went in compiling the book of Common prayer: for a Catechism published by the same Prince, it being composed by a learned person, presented to his Maty, and by him committed to the scrutiny of certain Bishops and other learned men, *quorum judicium* (sayes^b his Maty) *magnam apud nos auctoritatem habet*, after their allowance it was by him recommended to be publickly taught in Schools. Likewise the Articles for taking away diversity of opinions in points of religion, were agreed upon in a Synod at London by the Bishops and other learned men, & *Regia auctoritate in lucem editi*. The King in framing them taking no farther on himself, then he had in the book of Common prayer. And Queen Mary, though she quitted the title of *head of the Church* (which yet she did not so suddenly as *Saunders* intimates) did in effect as much. So that hitherto there is no way of fixing any schism on the English Church, for neglect of obedience, it having been ever subject to the Archbishop of Canterbury and others its lawfull superiors, restoring to him the ancient right belonged to his chair, of being their

b *Littera ante
 Catechismum
 directæ omni-
 bus Ludima-
 gistris, & iis
 qui scholas
 grammaticas
 aperiant, dat.
 20. Maii an-
 no regni 7.*

cap. 3. n. 30. their spirituall pastor next and immediately under *Christ Iesus*. But the Kingdome being re-united to the See of *Rome* by *Queen Mary*, though what I have said doth in a good part free it of schism, yet in respect the reformation I onely took upon me to defend was made by *Queen Elizabeth*, and continued since, it will be necessary to make some more particular mention how it did passe.

C H A P. VII.

*How the reformation was made under
Queen Elizabeth.*

1.  *Elizabeth*, the daughter of *Henry the 8th* by *Queen Anne Bolen*, being received by all the estates of the Kingdome, (assembled in Parliament) and proclaimed Queen, caused her sisters Ambassador, *Sr Edward Kerne*, then residing at *Rome*, to give an account of this her being called to the Crown to *Paulus 4th* the Pope; who being in union with *France*, and out with the house of *Austria* then strictly joyned with *England*, and both at odds with the *French*, told him, either perswaded by them, or upon his own heady disposition, *England was a Fee of the Church of Rome; That she could not succeed, as illegitimate; That he could not go against the declarations of Clement the 7. and Paulus 3rd; That her assuming the name and government without him, was so great an audacity, she deserved not to be hearkned to: But he being willing to proceed paternally, if she would renounce her pretensions, and freely remit her self to his arbitrement, he would do what lay in his power with the dignity of the Apostolick See.* A strange reply to a civil message, were it not derived to us by an unquestionable hand, and that it came from

a Hist. Council
of Trent Ital.
lib. 5. anno
1558 p. 199.
edit. Lond.
1619. & Ge-
neya p. 410.

from *Paulus 4^m*, to whom it was not an unusuall saying,
b that hee would have no Prince his companion, but all
 subjects under his foot. Upon this unwillingnesse to ac-
 knowledge her Queen at Rome, th' Archbishop of York
 (who had before ^e affirmed no man could doubt of the
 justnesse of her title) and the rest of the Bishops refused
 to Crown her. As for that ^d some write, *it was because they*
had evident probabilities she intended eyther not to take, or
not to keep the oath was then to be administred unto her, espe-
cially in the particular of not maintaining holy Churches
lawes, in respect she had shewed an avernesse to some cere-
monies, as commanding the Bish. of Carlile not to elevate
the consecrated Host, (who stoutly refused her) and out of
fear she would refuse in the time of her sacre the solemn di-
vine ceremony of Punction; these are certainly without a-
 ny colour, and framed since. For as for the last, the ce-
 remony of anointing, she had it performed; as had King
James who succeeded her, who ^e would not have his
 Queen crowned in *Scotland* without it. For the other,
 it is altogether improbable that he to whom the com-
 mand was by her given, would of all the rest have assen-
 ted to crown her, had he conceived that a cause. why it
 might have been denied: neither indeed did she alter
 any thing materiall in the service of the Church; till after
 the conference at *Westminster* 1559. the 31. March, and
 the Parliament ended.

2. To passe therefore by these, as excuses found out
 after the deed done, the true reason being (no question)
 something came from the Pope, in pursuance of that
 answer he had given her Agent; the Queen seeing she
 could expect nothing from the Papacy, laboured to
 make all safe at home, or, to use her own phrase, *to take*
care of her own house; and therefore (as she had reason)
 desired to be assured of her subjects fidelity, by propoun-
 ding an oath to certain of them, (which is seldome a tie
 to other then honest minds.) But the way (mens minds
 distracted

b Ibid. paulo an-
 te eodem libro.

c His speech at
 the making
 known
 Queen Maries
 death to the
 Commons, in
 Camden. Ho-
 linthead, Graf-
 ton, & aliis
 d The defence of
 the catholicks a-
 gainst the book
 styled The Exe-
 cution of Ju-
 stice in Eng-
 land, pag. 51.

e See Spots-
 wood's History
 of the Church of
 Scotland, p 381.

f Stat. 28. Hen.
the 8. cap. 10.

2 Journ. des
Ces 1. Eliz.

distracted in points of religion, the *l* law of *Henry the 8.* (extinguishing the auctority of the Bishop of *Rome*) being very severe, for securing himself, in bringing such as did but extoll the said auctority, for the first offence, within the compass of a *premunire*, and that refused to take it, of treason,) was not easy to be pitcht upon: besides styling the King *head of the Church*, which many made a scruple at; to *g* which effect a bill being presented to the house of Commons the 9. of *February*, after many arguments had upon it, the 13. of *February* upon the second reading it was absolutely dasht, and upon great consideration taken the 14. *Febr.* a Committee appointed to draw a new Bill, in which an especial care was taken for restoring onely the ancient jurisdiction of the Crown, and the Queen neither styled *supreme Head*, nor the penalty of refusing the Oath other, then the being excluded from such places of honour and profit as they held in the Common-wealth: yet with this *proviso*, that he who had an estate of inheritance in a temporall Office, & refused to take the said oath, did after upon better perswasion conform himself, should be restored unto the said estate; and that such as should maintain or defend the auctority, preeminence, power or jurisdiction, spirituall or ecclesiasticall, of any forreign Prince, Prelate, Person, State or Potentate whatsoever (nor naming the Pope, as her father had done) should be three times convicted before he suffered the pains of death.

3. This Bill, which no doubt the Popes carriage drew on, being expedited in the house of Commons, received reformation by the Lords, committed the 13. *March* to the Lord Marquess of *Winchester*, Lord Treasurer, the Duke of *Norfolk*, the Earls of *Westmorland*, *Shrewsbury*, *Rutland*, *Sussex*, *Penbrook*, viscount *Mountague*; Bishops, *Exeter*, *Carlisle*; Barons, *Clynton* Admirall, *Mortey*, *Rich*, *Willoughby*, *North*, no one of them then nored for Protestantisme; the 18. *March* past the Lords, none dissenting but

but 8. Bishops, the Earl of *Shrewsbury*, Viscount *Mountague*, and the Abbot of *Westminster*: and the same day sent to the house of Commons, who upon perusal found again what to amend it in; so as it had not it's perfection in both Houses till Saturday the 6th of *May* (when the Parliament ended the Monday following) at which time onely Viscount *Mountague* & the interested Clergy opposed it. By which it cannot be questioned, but the generality of the Lords did interpret that law, no other then, as indeed it was, a restoring the Crown to it's ancient rights; for if otherwise, without doubt there would have been as great an opposition at least made against it, as some other statutes which past that Parliament met with, that the Marquess of *Winchester*, the Lords *Morley*, *Stafford*, *Dudley*, *Wharton*, *Rich*, *North*, joyned with the Earls of *Shrewsbury*, Viscount *Mountague*, and the Prelats, to have stop't.

4. But whereas some were induced to think by the generality of the words, that affirm her Highness to be *supreme governour as well in all spirituall or ecclesiasticall causes as temporall*, as if it had been an usurping upon the sacred function in the interior (as I may say) of the Church, properly belonging to them in holy Orders, her May the same year ^b did declare, *She did not challenge any other authority then was challenged and lately used by King Henry the 8th and Edw. 6. which is, and was of ancient time due to th' imperiall crown of this Realme; that is, under God to have the Sovereignty and rule over all manner of persons born within these her realms, &c.* And that to be the onely sense of the Oath she caused to be confirmed the next ⁱ Parliament; at which time a Synod being held, for avoiding diversity of opinions, and establishing of consent touching true religion &c. it did expressely declare, ^k they did not give to our Princes the ministring either of Gods Word or the Sacraments, — *But that onely prerogative is given in holy Scripture by God himself, that*

^b The Admission in Injunctions
ⁱ Eliz.

ⁱ Eliz. cap. 1.

^k Art. 37.

S

is,

is, that they should rule all estates and degrees committed to their charge by God, whether they be ecclesiasticall or temporall, and restrain with the civill sword the stubborn and evil-doers, &c. And these articles were likewise confirmed by Parliament 13. *Eliz.* cap. 12. so that no man can doubt this to have been other then an acknowledgement, what Princes had done formerly in all ages might be justly continued; not an introductory of a new law, but the assertion of the old right of our Kings.

3. Another matter of great weight then likewise expedit was, the settling the publick service of the Church in one uniform way. King *Edward* the 6. intending such a reformation as might serve for edification, caused certain pious and learned men to meet together, who (as it seems) taking for their pattern the practise of the primitive times, casting out of the Liturgies then used such particulars as were any way offensive, shew'd their scope to be, what they pretended, to reform, not make a new Church or Service; and thereupon had, by the aid of the holy Ghost, (as the Act of Parliament speaks) concluded on, and publisht the *book of Common prayer*, with a form of administration of the holy Communion, commonly called the *Mass*. But nothing humane is perfect at first: this Book some few years after received in his time alteration, and the word *Mass* (I know not why more offensive in it then the *Augustane Confession*) expunged, with some other phrales in it.

6. But for the better understanding how *Queen Elizabeth* found this Church, it will not be amiss to look a little back. *Henry* the 8. dying in *January* 1547, leaving the *Roman Service*, with some alterations not greatly considerable in it, the wisdom of the State (however intending a farther reformation) was not immediately to abolish it; so as the Lords meeting in *Parliament* 1547. November the 4. though they had the *Mass* sung in *English*, yet the Liturgy of the Church was not common in that language.

1 Stat. 2. & 3.
Ed. 6. cap. 1.

in Cap. de
Missâ. Retine-
ant Missâ a-
pud nos, &
Summa reve-
rentia celebra-
tur.

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language till after *Easter* 1548. This Session continuing till *December* 23. restored the Communion in both kinds, upon which certain learned men by appointment met at *Windsor*, to consider of a decent Form for the administration of it; which in *March* his Ma^y gave out backt with a Proclamation, as at *Easter* it began (without compulsion of any,) to be put in practise, and after *Easter*, severall parochiall Churches to celebrate divine Service in *English*, which at *Whitsuntide* was by command introduced into *Paul's*; but hitherto no book of Common prayer extant, onely the manner of administering the holy Eucharist somewhat altered.

7. During this while, the Archbishop of *Cant.* 6. Bishops, 3. Deans Doctors, and 3. other onely Doctors, were busied in reforming the publick Liturgy of the Church. *Iohn Calvin* of *Geneva*, a person then of high esteem, advertised of it, thereupon wrote to the Duke of *Somerset* the 22. *October* 1548, giving his judgement in these * words [*quod ad formulam precum & rituum ecclesiasticorum, valde probuit certa illa extet, à qua pastoribus discedere in functione sua non liceat, tam ut consuleretur quorundam simplicitati & imperitiæ, quam ut certius ita consuetum inter se ecclesiarum consensus, postremo etiam ut obviam eatur defensoriæ quorundam levitati qui novationes quasdam affectant.*] and taking notice of the form already had for celebrating the Communion, adds this, *Audio recitari isthic in Cæna celebratione orationem pro defunctis, neque vero hoc ad purgatorii Papistici approbationem referri satis scio, neque etiam me latet proferri posse antiquum ritum mentionis defunctorum faciendæ, ut eo modo communio fidelium omnium in unum corpus conjunctorum declaretur; sed obstat invictum illud argumentum, nempe Cænam Domini adeo sacrosanctam esse, ut ullis hominum additamentis eam conspurcare sit nefas.*

* *Iohan. Calvin. Epist. 37.*

8. This Letter received about the * beginning of the

S 2

Parliament,

* Note, the printed book of statutes is, mis their meeting

Went the 4. November: which I conjecture agree in, as not at all agreeing with the Journal.

Parliament, which met the 24. of *November* 1548. may have been the cause of deferring th' exhibition of it to the House of Commons till the 19. *December* 1548. when the consideration of it was referred to *S^r Thomas Smith*, his *Majties* Secretary, and a very learned Knight, who returned it back again the 19. *January*, having kept it by him a full moneth; after which it was expedited and printed in *March* following, and the 6th of *April* 1549. the Mass by Proclamation removed. But this book was not so perfect, as it yielded no exceptions, whether just or not I shall not hear examine, I know learned men have judged variously: it shall suffice me to say, it was again revised by *Bucer* (a great patron of Discipline, and Martyr, both in *England*.) and reprinted 1552. and to ought in or of this second edition during King *Edwards* reign I have not heard any Protestant did ever except.

9. In *Queen Maries* time divers learned men retired from the heat of Persecution, and by the favour of the Magistrate permitted a Church 1554. at *Frankford*, laboured to retain this Liturgy; whom *Knox*, *VWhittingham*, and some others opposed so far, as one *Haddon* desired to be their Pastor, excused himself, and *M^r. Chambers* coming for that end from *Zurick*, finding it would not be allowed, retired back again, and xvi. learned men then at *Strasburgh* (amongst which this *Haddon*, *Sandis* afterward Archbishop of *York*, *Grindall* of *Canterbury*, *Christopher Goodman* famous for his book of *Obedience*) remonstrated unto them, *That by much altering the said book they should seem to condemn the framers, now ready with the price of their blood to confirm it, should give their adversaries occasion to accuse their doctrine of imperfection, themselves of mutability, and the Godly to doubt of what they had been perswaded; that the use of it permitted they would joyn with them by the first of February: their Letter bearing date the 23. of November 1554.*

10. But nothing could move them to be like Saint *Paul*,

Troubles at
Frankford p.
xxii.

Paul, all things to all that he might gain some, or relent any thing of their former rigour; onely a Type of it drawn into Latine was sent to *Calvin* for his judgement, who returned an answer the 18. January 1557. somewhat resembling the *Delphick* oracles, *That the book did not contain the purity was to be wished; that there were in it ineptias, yet tolerabiles; that as he would not have them be ultra modum rigidos, so he did admonish others ne sibi in sua inficitia nimis placeant, &c.* And here I cannot deny to have sometime wondred, why in these disputes the opinion of *Peter Martyr*, then at *Strasburgh*, a person for learning no lesse eminent, was never required: but I have since heard him to have been alwayes a profest patron of it, as one by whose care and privity it had been reformed.

1 Corin. ix.
12.

Epist. 200.

11. Whilst matters went thus in *Germany*, certain learned men at *Geneva* were composing a Form for the use of the *English Church* there, which 1556. was printed by *Crispin*, with this title,

Ratio & forma publice orandi Deum atque administrandi Sacramenta &c. in Anglorum ecclesiam, qua Geneva colligitur, recepta, cum judicio & comprobatione D. Iohannis Calvini.

But this did not satisfy all, for *Mr. Lever* coming to *Frankford* to be their Minister, requested they would trust him to use such an order as should be godly, yet without any respect to the book of *Geneva* or any other. But his endeavours were soon rejected, as not fit for a right reformed Church, and the book it self hath received since sundry changes from that first type.

12. In this posture *Queen Elizabeth* found the Church, the Protestant party abroad opposing the book of Common prayer, few, varying in judgement, not at unity with themselves, nor well agreeing what they would submit unto: She hereupon caused it to be again revised by certain moderate and learned men, who took a

• The first
book of Ed. 6.
fol. 130. b.

great care for removing all things really lyable to exception; and therefore where *Henry* the 8. had caused to be inserted into the Letany, *to be delivered from the Tyranny of the Bishop of Rome & all his detestable enormities*, which remained all King *Edwards* time, this, as what might give offence to that party, was thought fit to be strook out; and wherein the delivery of the Eucharist the first book of *Ed.* the 6. had onely this clause, *"The body of our Lord Jesus Christ which was given for thee preserve thy body and soul unto everlasting life"*, and at the giving of the Cup no other then *The bloud of our Lord Jesus Christ which was shed for thee preserve thy body and soul unto everlasting life*, and the second book which was in force at his death had removed those two clauses, and instead of them inserted *Take and eat this in remembrance that Christ dyed for thee, and feed on him in thy heart by faith with thanksgiving*, and accordingly at the delivery of the Cup, from whence some might, and perhaps did infer the faithfull Receiver not to have a real communication of Christs body, in taking the Sacrament, but onely a remembrance of his sufferings; it was now thought fit both expressions should be retained, that no man might have any just cause of scandall: for be *Christs* presence never so reall, even by *Transubstantiation*, in the holy Sacrament, we may upon • Saint *Pauls* warrant do it in remembrance of him.

• 1 Cor. xi.
24, 25. j

Thus at the first of her reign matters in religion past with so great moderation, as it is not to be denyed very few, or none, of the *Romish* inclination (if they did at any time go to Mass,) refused to be present in our Churches during the time of Divine Service.

But of another thing that likewise past at the same time, it will be necessary to make some more particular mention.

CHAP.

C H A P. VIII.

*How Queen Elizabeth settled in this
Kingdome the proceeding against Hereticks.*

1 **A** Nother particular, no small argument of the
Queens disposition, fell into consideration
this Parliament. Her * Sister had revived all
the laws of former Princes against Hereticks,
even that ^b of *Hen.* the 4. which her Father had on
weighty considerations repealed, and all proceedings
against them, till they came to their very execution, per-
taining to the Ecclesiastick: how to find a means to pre-
serve her subjects, and yet not leave a license to every old
heresy, new invention, fanatick spirit, to ruffle the
Church and trouble the world, was a matter of no small
difficulty. But for the better understanding of what then
past, it will be requisite to consider, how the condemn-
ing of Heresy and proceeding against Hereticks hath
been, both here and elsewhere, how her Ma^y found it
abroad in the Christian world, and at home, how
thereupon she settled it.

a 1. 2. P. M.
cap. 6.

b 2. Hen: 4.
cap. 15. re-
pealed, 29. 25.
8. cap. 14.

2. The words *Heresy* and *Heretick* were in the primi-
tive Church not alwayes of so ill a sound as these later
Ages have made them. * *S^t Augustine* doth name
some opinions for hereticall have small affinity with
Divinity; and who shall read * *Philastrius* of Heresies,
must needs approve * *Cardinall Bellarmin's* censure of
him, that he accounts amongst them many are not pro-
perly Heresies, as the word is now taken. The first
Councell . . of *Constantinople* held 381. expressly af-
firms by the name of Heretick to understand such as pro-
fessing the same faith, yet did make a separation from
those

c De Heresi-
cū cap. 63.

d Yo. 4. bibli-
othec. patrū
cap. 54. 82.
e De Scriptori-
bus.

. . . Concil.
Gen. Rom: 100
1. p. 88. cap. 60.

f. *Act* xv.

g Euseb. lib.
6. cap. 25. al.
30.
h Euseb. lib.
7. cap. 25. &c.
ad cap. 2. al.
cap. 22, 23, 24.

i Euseb. lib.
10. cap. 7.
Socrus. pro-
em. lib. 5.
vide epist.
Theodosii
Cyrillo apud
Baton. 10. 5.
Anno 430. n.
64.
k Codex Theo-
dos. lib. 16. de
Hæreticis leg.
1. Vide Euseb.
de vita Con-
stantini cap.
61, 62. lib. 3.
l Cod. Theod.
lib. 16. de
Fide Catho-
lica leg. 2.

those canonicall Bishops were of their communion. But the construction what opinion was hereticall, did ever, so far as I have observed, belong to the spirituall Magistrate, who, after the pattern held out in *holy Writ*, if any new erroneous opinion did peep, the neighbour Bishops and Clergy taking notice of it, did assemble, condemn it, and by their letters gave notice of what had past them to absent Churches: if the case were difficult, the presence of any famous Clerk was desired, who for settling peace (as who would not?) was easily drawn out of his own home; so was *s Origen* sent for into *Ara- bia*. And that this form continued in condemning He- resy till *Constantine*, seems to be very plain by the *s* proceedings against *Paulus Samosatenus* and divers others, remaining yet in history, and the writings of the fathers. But for the prosecution of an Heretick farther then to avoid him, I know no example, till after God having given peace to his people under Christian Emperours, they *i* finding, if the Church were in trouble, the State to be seldome otherwise, did provide as well for the calling of Bishops to Councells that might condemn He- resies, as by lawes to punish Hereticks.

3. The Councell of *Nice* therefore having in the year 325. censured the opinions of *Arius* for hereticall, the Emperour that had formerly granted priviledges to Christians 326, declared *k hæreticos atque schismaticos his privilegiis alienos &c.* and that no man might be deceived by the ambiguity of the word *Heretick*, *l Grati- an* and *Theodosius* in the year 380. did declare who onely were to be so reputed, viz. all who *secundum Apo- stolicam disciplinam evangelicamque doctrinam patris & filii & spiritus sancti unam deitatem sub parili majestate & sub pia trinitate credamus, hanc legem sequentes, Christi- anorum Catholicorum nomen jubemus amplecti, reliquos vero demones vsanosque judicantes hæretici dogmatis in- famiam sustinere:* and the year following did not onely

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in January^a renew the said Edict, but in July^a com-
manded all Churches to be delivered those Bishops who
held that profession, *nihil dissidium profana divisione faci-*
entes, sed Trinitatis ordinem, personarum adfessionem, divi-
nitatis ordinem &c. and for the more assurance, as a mark
of their being orthodox, did hold communion with
the Catholick Bishops of any one seat there remembered,
as *Damasius of Rome, Nestorian of Constantinople, Pela-*
gius of Laodicea, Diodorus of Tarsus, Optimus of Anti-
och, &c. omnes autem qui ab eorum quos commemoratio spe-
cialis expressis fide communionis dissentiunt, ac manifestos
haereticos ab ecclesiis expelli. Which note^a Justinian like-
wise in the year 541. having prescribed, goes farther,
that *sacram communionem in Catholica ecclesia non per-*
ipientes a Deo amabilibus sacerdotibus, haereticos iuste vo-
camus.

4. Before these lawes, it is not to be wondred if every
one desired to be joyned in communion with some one
of those seats, whose Bishops were so recommended, for
conserving the Apostolick faith, for the sanctity of their
manners, and for keeping schism out of the Church;
which being usually joyned with sedition in the Com-
monwealth, & Princes seem to have an especiall eye how
it might be avoided; but after these Edicts they certain-
ly did it much more: and there being in the world no
Bishop more famous then the *Roman*, nor any other na-
med in these parts of *Europe* then he, every one endea-
voured to live united to that Church, whose form the
Councell of *Nice* 325. (for before that, *ad Roma-*
nam ecclesiam parvus habebatur respectus, as *Pius secon-*
dus writes) approving in distribution of the ecclesiastick
government; and Emperours now in point of time, the
Roman Chair became so eminent, as, for to shew them-
selves orthodox, many, especially of the *Latin*, did hold
it enough to live in the communion of that See, and the
Fathers in that Age to give high expressions of being in

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union

m Ibid. de
Haeretic. leg.
6.
n Ibid. de
fide Catholi-
ca leg. 3. &c.
o Ibid. leg.
2, 3. Annus
380, 381. &
ibid. de his qui
religione
contendunt
leg. 6.

o Novel.
Constit. 109.
in prefat.

p Cod. Theod.
de lib. et
de his qui re-
ligione con-
tendunt, leg.
6. 3.
Ancor. An-
vii Epist. 301.
in edit. Lug-
duni 1505. at
Bellarmino c.
dist. 222.

²: Ambros.
oratio de obitu
fratris.

⁴: Hieron. ad
Damasum e-
pist.

²: Gregor.
lib. 10. epist. 31.

⁹ Cod. Theo-
dos. lib. 16.
de fide Catholi-
ca leg. 2.

¹ De Roma-
no Pontif. lib.
4. cap. 5. §.
Quod autem.

¹ Recognit.
pag. 19. edit.
1608. Ingol-
stat.

¹ Regul. 13.

union with it. :: S. *Ambrose* shewing the devotion of his brother *Satyrus* in a tempest, adds yet farther as a mark of it, *Advocavit ad se Episcopum* — *perconatusque ex ea est utrumnam cum episcopis catholicis, hoc est cum Romana ecclesia, conveniret*: and S. ⁴: *Hieron.*, a person very superlative in praising and reproaching, writing about the same time to *Damasus*, *Ego nullum primum nisi Christum sequens. Beatitudini tuae, id est cathedra Petri communionem confocior* &c. and in the year 602. a certain Bishop returning out of schism *sponsanea voluntate* did swear, :: he *in unitate sancta ecclesia catholica, & communionem Romani Pontificis, per omnia perman-surum* &c. All which in time bred an opinion, that Chair could not entertain an error, and the beginning of the mark absolutely inverted; for those men who at first were, as others, sought unto ¹ because they did conserve the religion S. *Peter* had planted in *Rome*, must in after-ages be onely held to maintain the same doctrine because they are in that See; so that the Doctrine did not commend the person, but the being in that seat, and recommended from thence, be it what it will, it ought to be received: insomuch as ¹ Cardinall *Bellarmino* doubts not to write, *Si Papa erraret precipiendo vitia vel prohibendo virtutes, teneretur ecclesia credere vitia esse bona & virtutes malas, nisi vellet contra conscientiam peccare*: for which he was ¹ afterward forced to an Apology; yet is not in my opinion so absurd as the ¹ rule left by certain religious persons 1606. to their confidenees at *Padova*, containing *ut ipsi Ecclesia catholica* (understanding the Pope) *omnino unanimes conformesque simus: si, quod oculis nostris apparet album, nigrum illa esse definieris, debemus isidem quod nigrum sit pronuntiare* &c.

5. But to return whence I have a little digress't: it being plain by these lawes, the Emperours restrained points of Heresy to the Catholick Doctrine of the Father,

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Father, Son and holy Ghost, the ground of the four first
 generall Councils; and others not to be esteemed
 hereticks: in which sense I conceive sundry of the
 ancients take the word; as * S. Hierome, when he sayes
all Hereticks leave God; and Socrates, when he agrees
 such as * condemned Origen, *finding not to blame his*
opinion of the holy Trinity, must confesse he held the right
faith: and Leo the first, when in an epistle about 449.
 he exhorts the Emperour Theodosius to consider the
 glory of S. Peter, the Crowns of the Apostles, *cun-*
torumque Martyrum palmas, quibus alia non fuit
causa patiendi, nisi confessio vera divinitatis, & vera hu-
manitatis in Christo, doth intimate the true faith to
 be contained in that profession. After these restri-
 ctions in the declaration of Heresy, it is likely divers
 Sects grew very audacious, either conceiving them-
 selves without the compass of law, or trusting in their
 friends and numbers; insomuch as Arcadius, Theo-
 dosius and Valentinian, in the year 395. were forced
 to declare, *Hereticorum nomine continentur, & latis*
adversus eos sanctionibus debent subcurrere, qui velle-
ut argumento judicio Catholica religionis & tramite de-
recti fuerint deviare: which St. Augustine explains,
eos utique hereticos appellans, qui non sunt communio-
nis eorum, as the Councell of Constantinople had be-
 fore, taking the word in a larger sense then others
 had done. Upon which the Donatists, that were the
 most * furious, so as neither the persons nor goods
 of Catholicks that dwelt amongst them were safe,
 are more * severely censured in them, then others,
 whose opinions were certainly more dangerous,
 yet whom Emperours did think worthy of more fa-
 vour.

6. But whilst Princes did thus by their lawes onely
 correct Hereticks, and the temporall Magistrat execute
 their commands, they did rarely think fit to proceed

a Hier. in
 Jerem. 19.

xviii. 19. Socras
 lib. 6. cap. 17
 ad. 12.

y Cod. Theo-
 dos. lib. 16.
 leg. 28. de
 Heret.

z August.
 in Psal. 57.
 vs. 8.

a Ibid. leg. 38.
 vide August.
 epist. 68. &
 no. 7. contra
 Jul. Phil. cap.
 83.

b Cod. Theo-
 dos. de Heret.
 lib. 16. leg.
 37, 38, 39, 40
 52, 54, 65.

"I cannot but
with the lear-
ned Wesem-
bechius (in
cod. lib. 1.
Tit. 5. de He-
reticis &c.)
understand
those words,
Manicheos.
de civitatibus
pellendis &
ultimo sup-
plicio traden-
dis, not to be
meant of sta-
king away
their lives;
though I am
not ignorant
Cellius the
lawyer so in-
terprets uli-
mum suppli-
cium ff. de
pœnis leg.
21. for to
with use were
the banishing
them the city,
if they were
to be instantly
executed; and

that law being taken out of Cod. Theodos. leg. 65. de Heret. where those words are altogether omis-
sed, I conceive Iustinian intended by them whether had those Capitales pœnz that were most pro-
xime, as metalli coercitio, in insulam deportatio, &c. ff. de pœnis leg. 28. For like may
serve for answer to those other Rescripts in Cod. Theodos. de Heret. leg. 9. 36. It is manifest
by many places of S. Augustine, as to. 71. contra lra Petilian, lib. 2. cap. 86. that there was
an error during his time against the life of an heretic; and Bellarmine himself confesseth in morda
de haer. cap. 21. § Augustinus. But however the matter is not great, being onely against some
particular hereticks, whose deportment may be thought to have been seditious as well as their con-
science erroneous. § De Heret. leg. 9. cod. Justin. d. Epist. 129. & Ruffin. lib. 5. cap.
3. & Ruffin. in Chronico. An. 392. § To. 4. Anno 386. n. 23. Vide Iohan. Royas singular.
107. n. 6. Directorium Inquisitor. 2. part. cap. 27. p. 131. col. 1. par. 3. quass. 102. p. 702.
col. 2. edit. Roma. 1586. vide forniculus &c. ad form. praxis judicariæ Inquisit. p. 324. &
p. 326. § Direct. part. 3. in quass. 36. Franc. Pegn. comment. 25. p. 608. col. 2. Iohan.
Royas singular. 107. n. 2. vide part. 2. n. 110.

* to blood, unlesse perhaps against some seditious
preacher; and the holy men of those times used earnest
persuasions to deter any inclined to that severity, as not
esteeming it to agree with the entire charity of a Christi-
an. S. Augustine, whose labours no man equalled to pre-
serve the Church from that contagion, when Donatus
the Proconsul of Africa went farther then that holy man
liked in that kind, & professeth he had rather be himself
slain by them, then by detecting the Donatists be any
cause they should undergo the punishment of death. S.
Prosper remembers four Bishops to have been excom-
municated 392. for being accusers of Priscilian (the first
I have read of had his opinions confuted not by Syllo-
gisms but steel.) From whence Baronius conceives
it proceeds, that such as deliver an Heretick to the Secu-
lar for execution, to this day, effectually intercede he
may not be punisht with death; yet, as it were to mock
God and delude the world, if the Lay having him in his
power, shall defer the doing it more then ordinary, & it
is the constant tenet of the Canonists, relying on a Bull of
Alexander the 4. 1260. he is to be compell'd unto it by
spirituall censures, yet may not take any cognizance of
the cause at all.

7. It being then the course in the primitive times,
that in the proceeding against Hereticks, the Ecclesia-
stic

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stick did conclude what * *Tenets* were Heresy, and the Temporall whether the party accused were guilty of the imputation, and likewise of his punishment (as is manifest by imperiall constitutions, the writings of the ancient Doctours, the custome of the Catholick Church, that never prayed against Hereticks, but Heresy,) did so remain at least 800. yeares after *Christ*: but about that time the division of the Empire falling out, and Episcopall Consistories established through *Europe*, Bishops did begin to claim as matters ecclesiasticall, and onely proper for their Courts, the acting in those causes; which in some sort might be, so far as the determination what is Heresy did extend. And about the year 1000, the Christian world (as branches not bearing fruit in *Christ*, and therefore to be cast into the fire, *Iohn* xv. 6.) began to take that way of punishing *Miscreants*; so in *Italy* and *France*, *jussu Regis & universae plebis consensu*, some were thus destroyed: and in imitation of Emperors, who had by their edicts prohibited all compliance with Heresy so far, as to punish any lending for that end places to resort unto. *Alexander* the 3. 1163. in a Councill held at *Tours*, & in another at *Rome* 1179. making very strict canons against Hereticks, declared, *eos & defensores eorum & receptores anathemati decernimus subjacere, & sub anathemate prohibemus ne quis ipsos in domo vel in terra sua tenere vel forare, vel negotiationem cum eis exercere praesumat*. Of which the later being registered in the Canon law, is the first ecclesiasticall constitution in it I have observed to condemn rather Hereticks then Heresy. Soon after which :: *Publicani comburebantur in pluribus locis per re-*

* *Statute at Leicester 2. H. 5. cap. 7. Here I cannot but observe, Possidonius in the life of St. Augustine cap. 18. noting the manner used then in the Catholick Church in condemnation of Hereticks, conformable to what is here specified, adds, Et hoc tale de illis Ecclesiae Dei catholicae prolatum iudicium etiam piissimus Imperator Honorius audiens ac sequens, su it eos legibus damnatos, inter haereticos haberi debere constituit. against which some had added in the margin, Caesar pronuntiat haereticos: but this shewing too apparent,*

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the custome of those times might perhaps (when the place is self was not) be regarded. The Inquisition therefore of Spain in their Index at Madrid 1612. p. 37. col. 1. appoints it to be blouded out. But their edict against the Delagians of whom that Father speaks, is not now found either in the Codex of Theodos. or Justinian. But see Baronius tom. 5. anno 419. m. 57, 58. Baron. 10. 10. Augo 1000. n. 4. Ibid. 10. 11. Anno 1017. n. 4. k Cod. Theod. de Heret. leg. 12. 21. 34. 36. &c. 1 Novat. fol. 34. n. 4. & apud Neubergens lib. 2. cap. 15. canon. 5. m De Heretich cap. 8. :: Ro. 8. & Hoveden, Anno 1182. fol. 352. b. 29. in fine anni.

gnum Franciæ, quod Rex Angliæ nullo modo permisit in terra sua, licet ibi essent perplurimi.

a De scriptor.

• Bernard. in
Cant. ferm.
64. to. 1. col.
937. k. ed. u.
1586.

8. Yet the pious men of those times seem not to approve of this rigour. St. Bernard, one of the most devout persons of that Age (*vir plane Apostolicus* sayes * Bellarmine) following the doctrine of one much more Apostolick, * explaining *Cantic. ii. 15. Take us the little foxes that spoyl the vines*, writes, *si juxta allegoriam ecclesiæ vineas, vulpes hæreses, vel potius hæreticos ipsos intelligamus, simplex est sensus, ut hæretici capiantur potius quam effugentur; capientur dico, non armis, sed argumentis, quibus resellantur errores eorum, ipsi vero si fieri potest reconcilientur Catholica, revocentur ad veram fidem* — hoc denique velle se perhibet, qui non simpliciter capite vulpes, sed capite nobis, inquit, vulpes parvulas; sibi ergo & sponsa suæ, id est Catholicæ, jubet acquiri has vulpes, cum ait capite eas nobis. and a little after, *Quod si Hæreticus reverti noluerit, nec convictus post primam jam & secundam admonitionem* — erit devotandus. Thus the holy men of the Age in which they stopt first mens mouths not with arguments but armes, did judge of it: and indeed we have not many examples of any suffered meerly for conscience till after 1216.

¶ Paramo de
origine Inqui-
sit. lib. 2. Tit.
1. cap. 1. n. 7.
p. 90. Siman-
ca Cathol. In-
stit. Tit. 25.
n. 4. p. 182.
Roma 1575.
¶ Paramo de
origine Inqui-
sit.

9. In which year, as some write, *Innocentius 3^m*. ? on the ignorance or remissness of Bishops in prosecution of Hereticks, did give beginning to the ¶ creation of a new Court, called since the *Inquisition*: of whose institution and use, because it hath highly served to the raising the Papacy, it will be necessary to say something. He therefore at that time appointing *Dominicus* a Spaniard, founder of the *Dominican Order*, by a Commission delegated from him, his Inquisitor against the *Albigenses* in France, (without abrogating the power of Episcopacy in that kind) gave to him, onely a private Friar, such a power, as caused divers of them to be destroyed by that authority in another Princes Dominions. Though such as

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* I have seen do conclude the auctority he exercised to have been from *Innocentius 3^m*. yet of the time when it was granted they do somewhat disagree. *Franciscus Pegna*, a Spanish Doctor, who publisht his annotations on the *Directorium Inquisitorum* at Rome 1585. yet it seems I could not secure himself from them, ^a holds it to have been first committed unto him about 1200. on the other side *Paramo* of the same nation, that was himself an Inquisitor in *Sicily*, and expressly writes of that subject, is ^a clearly of an opinion it could not be before the conclusion of the Councell of *Lateran*; and for proof gives in my judgement a very probable reason, viz. That no Papall Decretall, or History preceding, did ever name any such Inquisitor, that very ^a Councell when it treats of Heresy speaks of no other Judge then the Bishop: now it ending about *Easter* 1216. (as I shall shew hereafter) if granted by *Innocentius*, it must be at some time between *March* and the 16. *July* 1216. when that Pope dyed. Yet I cannot omit that ^a *Camillus Campegius*, in his additions to *Zanchinus*, speaks as if after that Councell Friar *Dominick* had not his auctority from the Papacy immediately, but from one *Bertram* or *Bertrand* a Cardinall Priest: but who that *Bertram* was, I confess I have not been able to satisfie my self. ^b *Ciaconius* remembers one of the name employed against the *Albigenses*, promoted to that honour by *Innocentius 3^m*. 1212. but he styles him onely a Cardinall Deacon; as he hath another so called that was a Priest, but he was no Cardinall, till *Honorius 3^m* in *December* 1216 preferr'd him to the honour, so was not capable of serving Pope *Innocent* in that degree.

10. But whosoever first began it, *Frederick* the 2^d. certainly much augmented their power, ^c publishing the

ol. 1. ^c Vide Bull. *Innocent*, 4. dat. 11. Kalend. Junii Pontific. anno 11. 1254. in Gallario à Francisco Pegna edit. ad calcem *Directorii*, p. 16. & *Alexandri* 4. ibid. p. 34. & *Clementis* 4. ibid. p. 57. &c.

^a *Franciscus Pegna*, Ludovicus à Paramo, Favianus Strada de bello Belgico lib. 2. p. 41. in fol. Roma 1640. ^b *Offat. Epist.* 59. Roma 5. Jan. 1596. ^c In *Director.* part. 3. comment. 32. p. 495. col. 1. h. u De origine *Inquisit.* lib. 2. Tit. 1. cap. 1 m. 13. cap. 2. n. 3. p. 96. col. 2. x Cap. 6. 7. 8. y Cap. 8. n. 36. z *Urspergentis* p. 321. o. biis apud *Pernsium* 1216. 16. Calend. Augusti. a Edit. Roma 1579. p. 149. concilio abso- luto Bernardus presbyter car- dinal. ipsum legationis of- ficiu obtinuit, qui prædecesso- rum exempla B. Dominicum Inquisitorem similiter insti- tuit. b Alphonsus Ciaconius de Cardinallib. Roma 1630. p. 650. col. 1. & pag. 663.

the 22. of February 1224. three lawes at Padua, by which he did constitute the *Dominicans* Inquisitors through the Empire, yet taking all others under his protection; and appointing such as should be convict of Heresy, *ut vivi in conspectu hominum comburantur, flammarum commissi judicio, &c.* That these edicts were publisht at the onely instance of *Honorius 3^m*. is very probable, in that they are not any way ^d recorded but in papall bulls *quoad verba*, (: as I shall shew hereafter.) After which, severall persons in divers parts proceeded against them by commission from *Rome*: so as the Bishop, who was the ordinary detector of Heresy, had little to do, and became daily to have lesse and lesse; that although his power be not in those cases absolutely taken off, yet it is so impaired, as it gives place to the Inquisitor; insomuch as if one suspected of Heresy be cited by him and the Bishop ^e at the same time, his appearance must first be in the Inquisition: and the reason given is, because they have a power by a delegated commission from the Pope, *f* whereas to the other *jure divino hac cura incumbit in haereticos inquirere*; and *g* *Simanca* yet more plain, *Cum Episcopi non habeant secretum carcerem, nec ministros idoneos ad procedendum adversus haereticos, non possunt servare ordinem illum qui praefinitus est Inquisitoribus: quam ob rem usque eo tantum procedere debent, ut in haereticos vel suspectos inquirant, & summariam probationem Inquisitoribus secreto mittere debent.* So that what power the Bishop hath in this kind from *Christ*, he is now become little other then agent or substitute to the Inquisitor in point of Heresy.

11. But these Commissioners exercising their authority with Fire, Tortures, and the like, in short time found themselves infinitely mistaken, in expecting by such violence to render that peace in the Church, and obedience in the world, the primitive Fathers by the truth of their Dictats, evidence of reason, and piety of their lives, drew

d In sexta
de heretico
cap. 18. Glossa
ad leges
quasdam.
n. 18.

e Paramo de
potestate dele-
gata lib. 3.
Quest. 2. n.
109. p. 536.
col. 1.
f Ibid. lib. 2.
cap. 2. n. 11. p.
133. col. 1.
g Instit. Ca-
bol. Tit. 35.
n. 5.

drew men unto : for in some places they were ^b expelled by the peoples fury, hardly any where continued but by strong hand; their carriage being so full of Scandall, as *Clement* the 5. in the Councell of *Vienna* could not but acknowledge they had so exceeded the power committed to them by the Apostolick See, ⁱ *ut quod in augmentum fidei per circumspectam ejusdem sedis vigilantiam salubriter est provisum, (dum sub pietatis specie gravantur innoxii) cedat in fidelium detrimentum.* For these men took upon them under the Pope, not onely to construe what was heresy, or complying with it, but on those imputations to imprison, fine, confiscate mens goods, to the destruction of honest people, and families; which forced some States ^k to limit their proceedings, barre them of prisons proper to themselves, and the wise *Venetian* appoint three Senators to supervise their actions: insomuch as this delegated power did so decline, as notwithstanding the many constitutions of *Innocentius* 4th, *Alexander* the fourth, and severall other popes yet extant for regulating of it, out of *Italy* it was little taken notice of; ^l in *Spain* it remained *obscurum debilitatumque*, till *Ferdinand* and *Isabella* 1479. by agreement with *Xistus* 4. or, as ^m others, 1484. with *Innocentius* 8, did so renew it, as ⁿ *Simanca* doubts not to write, they did introduce it into that Kingdome: which I conceive to be in respect of the alterations in the proceedings now used to those were formerly; for that tribunall, in preceding times committed from the Papacy to Friars regulars (who most depended on *Rome*,) and therefore said to be the Popes Court, is since by this concord become in effect no other then the Kings, being recommended to the care of Clerks secular and Lawyers, the *Dominicans* who formerly governed it altogether excluded, unlesse where the Inquisitors require their counsell.

12. The style or manner there used being, that his

V

May

^h Vide additiones ad Lambertum Schafoaburgensem anno 1232. Tit. *Chron. Hirsau.* anno 1214. p. 223. & anno 1233. p. 235. Mar. Paris Anno 1236. p. 429. anno 1238. p. 482. Munsteri cosmograph. p. 477. ⁱ In *Clement. de Hæreticis*, cap. 1. ^k Vide *Giovanni Villani lib. 12. cap. 57.*

^l Paramo de origine Inquisit. lib. 2. Tit. 2. cap. 2. n. 13. p. 133. & cap. 3. n. 5. p. 136. ^m Francis Pegna in Director. part. 3. com. 32. p. 495. col. 1. n. Cathol. Instr. Tit. 34. n. 5. See Pegna ubi supra.

• Vide Paramo de origine Inquisiti. lib. 2. Tit. 2. cap. 4. per totum : & Simanca ubi supra, Tit. 34. n. 6, 7.

y Instru^{ti}.

Hispal. cap.

28. ut citatur

à Paramo p.

146. col. 2. n. 4.

q Adriani

Hist. lib. 19.

p. 1341. &

ibid. lib. 18. p.

173. Illescas

Hist. Pom.

Madridi 1606.

lib. 6. in Pio

4. fol. 142. a.

col. 2.

Maty • names an Inquisitor generall, whom the Pope approves, and after is not at all admitted to interpose; for that Inquisitor nominates a Councell, of which himself is President, for number and persons as the King likes (as sometimes five, to which *Philip* the 2. added two more,) and these be of the gravest divines of *Spain*, ever residing at or near the Court, who compose all differences arising in particular Courts, receive all appeals, punish the defect of agents, and relates to none but the King. Of this Councell, as I said, the Inquisitor generall is President, whose auctority is very ample; for he nominates all provincially Inquisitors and their Officers, (who yet enter not on their charges but by the Kings allowance) whom on occasion he removes and punishes, releaseth all penances, appoints visitors over particular Courts, and though he be directed by the rule of the Canon Law and papall bulls, yet on occasion varies from them, as is manifest by these Instructions, *Relinquendum est arbitrio & prudentia Inquisitorum, ut procedant juxta juris dispositionem in his quæ hic non expresse declarantur*, is answerable to none but the King, admitting the Pope either very little or not at all: inso-much as *q Pius* 4th. 1565. sending the Cardinall *Buon compagno* into *Spain*, upon the cause of the Archbishop of *Toledo*, committed by the Inquisition there six yeares before on an imputation of heresy, the Kings counsell liked not he should alone examine that Prelate, without joyning two *Spaniards* both in the processe and sentence. Neither did that State receive the Councell of *Trent* 1564. by other auctority then the Kings onely, who by his edict of the 12. of *July* commanded the Cardinalls and others of his Clergy to observe it, without making any mention of the Pope. So that in that Kingdome this Catholick Prince doth not take on him much less over Ecclesiastick Courts and causes then the King of *England*, however he do not style himself Head
of

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of the Church. And therefore *Simanca* speaking of this Inquisition, plainly sayes, *Ferdinand* and *Isabella* *iudicii ordinem quo etiam hodie utimur magna ex parte insisterunt.* Infomuch as if we meet it at any time termed the *Popes Court* there, it is, no question, but a nominall appellation, of that is neither subject to his rules, nor to follow his commands, but as another will.

13. But this Court in *Spain*, and other places conforming themselves much to the papall interest, is become very infamous, things being carried in it, as we read in *Monst de Thous* excellent history, *prapostera iudiciorum forma, contra naturalem aequitatem, & omnem legitimum ordinem, — tum etiam immanitas tormentorum, quibus plerumque contra veritatem, quicquid delegatis iudicibus libebat, à miseris & innocentibus reis, ut se cruciatibus eximerent, torquebatur.* And indeed the directions *Popes* have set them, do not agree I think with the practise of any standing Court of Justice the world ever saw: as that of *Innocentius 4th* and *Pius 4th*, that no man shall know the names either of his accuser or that testifies against him, which *Camillus Campegius* will not have communicated to those learned men th' Inquisitors shall call to their assistance in judgement. Another of *Pius 5th*, that no declaratory or definitive sentence in favour of the accused, though after a canonicall purgation, *posse facere transitum in rem iudicatam*, but that they may again proceed *tam de antiquis quam novis super eisdem articulis*: which in effect is no other, but that a man once accused before them can never be freed. Of a third of the *same Pope*, that whosoever should strike or terrify any belonging to the said Office, (even a Notary or servant) should assist any to escape, imbezzle

V. 2

any

publicandus est, &c. *Additions ad cap. 14. Zanchini p. 104. Roma 1579. edit.* y *Bulla Pii 11, cui initium Inter multiplices curas. dat. Roma 21. Decembr. 1566. ubi supra, p. 169.* z *Bulla Pii 5th, cui initium Si de protegendis, dat. Roma 1. April. 1569. ibid. p. 174.*

Cabal. Tit. 34. n. 5.

Hist. lib. 3. p. 81. Anno 1547.

e Apud Emericum Director. Inquis. par. 2. p. 145.
u *Bulla Pii 4. cui initium cum sicut. à Francisco Pegna post Directorium edita p. 162.*
x *Constanter asserere a deo, quod nec ipsi peritis totis processis integraliter cum nominibus & circumstantiis*

y *Bulla*

z *Bulla*

1. *A.*

any writings of that Court, besides the being by that Bull declared *Anathema*, should be guilty of treason, and suffer according as men found culpable *in primo capite delicti legis*, their children subject to the paternall infamy, to be not onely incapable of succeeding in the fathers inheritance, but of receiving any legacy from friend or stranger, or attaining any place of dignity whatsoever; and others of the like nature, too long to be insisted on.

14. Certain it will not be easy (at least to my understanding) to prove these proceedings of a Court Christian to agree with those rules and examples Christ himself hath left us in holy Scripture: but the pursuing these Maximes, and the like, hath brought a great obloquy upon this Court, so as it is held an undoubted truth, the Inquisition under the *Spaniard* hath an eye rather to empty the purse, and is upholden more for temporall ends, then to cure the conscience. And to this purpose it may not be here unsightly remembered, that a *Spanish* Inquisitor, employed by *Philip* the 2. into *Sicily*, writes, it is found amongst the records of that Kingdome, :: *quod quando in anno 1535. fuit limitata seu suspensa jurisdictio temporalis hujus sancti officii in aliquibus casibus per invictissimum Carolum, cum felicitis memoria, jurisdictio spiritualis causarum fidei fuit in suspensio. & quasi mortua*: which I take no other then a confession, the Church, which it maintains, without the temporall power would fail and come to nought; as indeed ^b *Cardinall Bellarmine* somewhere in effect confesseth, that to restrain ecclesiastick jurisdiction to spiritualls, that pertain to the soul, is to reduce it to nothing.

15. But because I am here entred upon this fining or confiscation of the goods of a Lay person by a spirituall judge, on the conviction (or rather imputation) of Heresy, it will not be amiss to see how the Ecclesiasticks have gained that addition to the power left them by *Christ*; which is so necessary, as without it, that onely

was

^a *Adriani lib.*
17. p. 125. c. c.
Hist. Concil.
di Trani, lib.
8. p. 776.

:: *Taramo*
de origine In-
quisiti. lib. 2.
cap. 11. n. 17.
p. 203.

^b *Risposta ad*
fol. 22. A.
polog. del Pa-
dre Paolo p.
25.

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was committed to them from him, which the ancient Fathers practis't, would be as it were dead. It cannot be denied, Princes did in former times by their edicts impose pecuniary penalties on some actions concerned religion; so did *Theodosius* 392. on such as did ordain or were ordained in *Hæreticis erroribus*; which Law a *Councell* held in *Africk* about 404. (provoked by the inhumanity of the *Donatists*) did petition th' Emperour *Honorius* might be of force against them: but never any holy Bishop of those times took upon him to confiscate any mans estate for his opinions, much lesse to damnify the son for the fathers *tenets*; and the lawyers do expressly resolve, *si pœna alicui irrogatur — ne ad hæredes transeat*, and give this reason, *Pœna constituitur in emendationem hominum, quæ, mortuo eo in quem constitui videtur, desinit*; again, no man is *alieni criminis successor*: and accordingly, many imperiall constitutions do expressly provide, the Catholick children of hereticall parents (though the father were deprived of them) should succeed in their paternall goods; and thus it stood for ought I know for above a 1000 yeares, the Christian world thinking it hard the son should suffer for an erroneous perswasion of the father, neither did ever any holy Bishop for that space (unlesse as Deputy to some Prince) take upon him that way of punishing, and if any did, it was not approved in him.

16. In the year 1148. *th' Archbishop of Canterbury* called by *Eugenius* 3rd to a Councell at *Reims*, the King denied him passage; yet he stole thither; for which on his return he was expell'd *England*: into which notwithstanding he got, shrouding himself, as it seems, in those tempestuous times, and to make himself the more formidable, interdicted divine service through the Kingdom (which is the first experience the nation ever had of that censure.) To this the Prior of *S. Augustines* refused to yield obedience: and th' *Archbishop* having

c Cod. Theod. de Hæret. leg. 21. d Concil. Afric. cap. 60. & Baion. 10. 5. Anno 404. n. 123.

eff de pœnis leg. 20. f Ibid. & leg. 26.

g Cod. Theod. de Hæreticis leg. 40. lata Anno 407. in Cod. Inst. tit. rodem leg. 4. 19. lata Anno 530. & in Authenticeis Novel. 115. cap. 3. §. 14. lata Anno 531. &c.

h Vide Gev. Doro. bern. col. 2383. 1354. 1166. 1. 1656. 20. Willielmus Thorn col. 1307. 32. &c.

i Thorn, col.
1803, 63.

k Thorn,
1809, 55.

l Depun, cap.
3.

m Apud Ro-
gerum Hove-
den fol. 334
B. 3. & con-
cil. general.
Roma cap. 3.
p. 33. col. 2.
n De Hereticis
cap. 8.
o Hist. minor.
Anno 1217.
p De Heret.
cap. 10 &
Regist. Inno-
cent. 3. lib. 3.
epist. 1.
q Cod. The-
od. de fidei
leg. 3. & Cod.
Just. ad le-
gem Juliam
Majestatis
leg. 5. §.
Fili.

now made his peace with Stephen, got the sentence confirmed from Rome; upon which ⁱ omnes seculares in hoc monasterio servientes, prater censuram ecclesiasticam, ad gravem pecunia redemptionem, contra juris aequitatem & sanctorum patrum decreta, cogit. On this complaint being made to the Pope, he writ unto him, ^k Sicut nobis significatum est, homines ejusdem monasterii, pro participatione excommunicatorum, prater ecclesiasticam penam fuerunt ad redemptionem coacti; and thereupon commands him, quatenus omnia quae hac occasione sunt eis ablata sine vexatione restitui facias, nolumus enim ut nova in vestra ecclesia inducantur &c. so that certainly it did but then begin to bud: & after 1160, Alexander the 3.^l condemns the use of the Archdeacons of Coventry, who pro corrigendis excessibus & criminibus puniendis, à clericis & laicis penam pecuniariam exigunt, affirming it seemed to proceed de radice cupiditatis & avaritiae: yet the same Pope in a ^m Council at Rome 1179: appoints the goods of hereticks to be confiscated, but gives not at all any auctority to the spirituall judge in the execution of it; and at the compiling of the Decretalls by Gregory the 9.th that particular is omitted.

17. But not long after Innocentius 3, that *vere stupor mundi* and *immutator seculi*, as ^o Matthew Paris styles him, about the year 1200 appointed the goods of Hereticks under his jurisdiction should be confiscated, and out of it the like to be done by the secular magistrate, upon pain of Ecclesiastick censures; adding from certain ^q imperiall constitutions, that it being onely an act of mercy, that the children of such as commit treason have their lives spared, when they loose their goods, and the crime far greater to offend God then man, that the severity should not give scandall to the faithfull, in seeing children exposed to misery for the parents offence, there being many cases wherein according to the divine justice sons may be punished for the fathers fault, which he leaves

leaves the Canonists to justify by th' examples of *Chanaan*, the children in *Sodom*, of *Achan* &c. as I do the reader to seek in them. But it seems to me an hard glass, from prophetick speeches of the primitive times, or extraordinary examples, when God himself directed what he would have done, for us now to conclude a practise lawfull contrary to expresse precept, *Deut. xxiv. 16. Ier. xxxi. 30. Ezech. xviii. 20.* made good likewise by the ordinary use of those times. Besides, I am not satisfied with the reason, that temporall Lords punishing treason with the heirs losse of Estate, Heresy being an offence of the same or a worse nature against the Divine Majesty, children ought so to suffer: For doubtlesse all treason against a Prince presupposeth malice to his person or government, (and therefore we do not read that for meerly casual misfortunes, such as *Tirrells* in *England*, or *Mon-gomeries* in *France*, men have been so punished) and for that they take away the offenders life upon the first fact, which th' Ecclesiastick pardons: now questionlesse Heresy is out of an erroneous opinion the holder hath of pleasing God.

18. This of *Innocentius 3rd* I take to be the first papall constitution in the kind; yet some 16. yeares before it, divers of severall qualities being discovered in that part of the *Netherlands* was then within the province of *Reims*, the Archbishop and Earl of *Flanders* joyned in an edict, *ut deprehensi incendio traderentur, substantia verorum sacerdoti & principi resignarentur.* After this in the Councell of *Lateran 1215.* under the same Pope it was again established, *bona damnatorum [de heresi] si laici fuerint, confiscantur; si vero Clerici, applicentur ecclesiis à quibus stipendia perceperunt &c.*

Nine yeares after which *Fredericus 2nd* published those lawes at *Padova*, of which before, in which he did especially establish the confiscation of their goods, and is the first imperiall constitution of that kind; which remain

r Alphonfus à Castro de justis hereticorum punitione, lib. 2. cap. 11. Simancas Instit. Cathol. Tit. 9. n. 1. 6. Iohan. Royas singular. 66. n. 5. 6. Vide St. August. lib. 6. Question. 8. super Ios. 10. 4. 1 Kings xiv. 6. 2 Chron. xxv. 6.

t De Heret. cap. 9.

u Chronicon Agathinensi & Mitho 1608. editum ad caltem Siegebentis Gemblacen. sive aliorum, p. 236. anno 1213. x. Comit. Lat. cap. 3. Orde. Heret. cap. 1.

y Eduntur à
Francisco
Pegna, ad fi-
nem Directorii.

z De Episco-
pali audien-
tia, cap. Sta-
tuimus, & de
Hæret. Mani-
chæis, cap.

Gazaros &c.
a Apud Para-
mum de origi-
ne Inquisi.

lib. 2. tit. 2.
cap. 11. n. 8.
p. 198.

b Bul. Inuoc.

4. dat. idibus

Maii 9. Pon-

tif. cui initium

Ad extirpan-

da &c. in

bullario. et à

Francisco

Pegna ad fi-

nem Directorii,

p. 11. §. Tene-

antur.

c Ibid. p. 37.

§. Teneantur.

dat. Anagnia

2. Kalend.

Decem. 1259.

d Ibid. p. 65.

§. Teneantur.

bul. Clem. 4.

dat. Perasti 3.

Non. Novemb.

1. Pontificat.

e Anal. eccle-

siæ. Renaldi

10. 14. Anno

1297. n. 41.

f De hæreticis

in sexto cap.

19. vide cap.

17. 18.

g Extrav. com-

mun. cap. 1.

no where now entire save in some 7 papall bulls, as of
Innocentius 4. Alexander the 4. and Clement the 4. as is
noted in *Gloss. de Hæret. cap. 18. in sexto ad verb. leges*
quasdam: yet some part of them are now inserted into
the Codex of *Iustinian*, under the titles of *Authentica*
or *nova constitutio Frederici 2. de statu & consuetud. &c.*
as I have touched before.

19. But these lawes, though they confiscated the
goods of Hereticks, did not appoint how they should
be employed; inso much as the same Emperour, being
that very year 1224. at *Palermo in Sicily*,^a expressed his in-
tent to all his Officers through the Empire, but more espe-
cially in that Kingdome, that whereas formerly his Exche-
quer did receive the benefit of those confiscations, they
should be divided into three parts, viz. one third *Fisco*, a-
nother *Apostolica sedi*, & the other third *eisdem Inquisitori-*
bus. After which^b *Innocentius 4.*^m 1252. did appoint a dis-
tribution in some sort imitating him, as did likewise^c *A-*
*lexander the 4.*th, including as liable to the same punish-
ment such as were receivers of Hereticks: to^d which
Clement the 4. 1265. added, that the houses in which
Hereticks were found, to be destroyed without hope of
reedifying, the materials sold, and a threefold division
made, &c. These deprivations confined hitherto to *Ita-*
ly onely, *Boniface the 8.* 1295, or rather^e 1297, publi-
shing the sixth book of the Decretalls, made generall, de-
creeing, *Et bona Hæreticorum ipso jure decernimus confiscata*:
whereupon, and some other by him then inserted into
the Canon law, Bishops laboured to draw from th' Inqui-
sitors part of the profits thus distributed; but^f *Benedict*
the 11. 1303. did absolutely prohibit that, *sancquam juri*
absonum. After which, because (as it seems) the Clergy
were not free from prosecuting men onely for their e-
states, *Clement the 5.*th in the Council of *Vienna* 1311.
strictly^h enjoined, *ne prætenu officii Inquisitionis, qui-*
busvis

h In Clem. de Hæreticis cap. 2.

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busvis modis illicitis ab aliquibus pecuniam extorqueant; and likewise, *ne scienter attendent ecclesiarum bona, ob clericorum delictum, pradiſti occasione officii fiſco etiam ecclesia applicare;* changing what the Councell of Lateran had before eſtabliſht.

20. Yet notwithstanding this grave admonition of the Pope, their Agents did not carry themſelves without ſcandall in this kind, by reaſon of an i outrage ariſing from a *Franciſcan* Inquiſitor 1346. in *Florence*; a Scrutiny was had of his actions, and found he had raiſed from the Citizens 7000 florens of gold in two yeares, as compositions, or fines, upon the impuration of Heresy, yet never leſſe in the town; but any erroneous or leſſe cautelous word was cenſured as criminall. This drew the *Florentine* to conform themſelves to the uſages of *Perugia*, *Spain*, and other parts, in making a law, no Inquiſitor ſhould condemn any Citizen or borderer pecuniarily, but if an heretick, ſend him to the fire. By which we may gather, theſe bulls were not generally received in the world; for then in *Spain* th' Eccleſiaſtick did not fine men, and now the King there hath the benefit of thoſe conſiſcations. In ^k *France* they do not to this day impoſe on the Laicks *amendes pecuniaries*, but onely on the Clergy, which muſt be expended *en aumofnes* and *ouures pitoiables*, not to the enriching themſelves, &c. Neither doth the wiſe *Venetian* permit conſiſcating of eſtates to ariſe from any ſentence of theirs, but that is to devolve to the next heir. I do not here mention the conſtitutions of *Boniſace* Archbiſh. of *Cant.* 1260. nor of *Stratford* 1343. in this kind; becauſe of the firſt little reckoning was made, and the ſecond did onely refer to commutation of penance, which the law allowes: he that would may find them in *Lyndwood* lib. 3. *de immunitate eccleſiaſia* cap. *Accidit*, and lib. 5. *de panis* cap. *Evenit*.

21. If any aſk a cauſe, why the ancient Fathers did proceed with ſo great lenity againſt blaſphemous here-

X

ticks,

i Giovanni
Villani lib.
12. cap. 57.

k Arreſt de la
court de Par-
liement a Pa-
ris 27. Jan.
1542. habetur
in libro des
preuves des
libertes de l'eſ-
gliſe Gallicane
cap. 38. n. 9.
p. 1082.

1 Auguft. E-
pift. 63.

m Auguft.
contra Iueros
Petiliani Do-
nat. lib. 2. cap.
33.

n Xodus ma-
tutatus efuit.
St. Socrates de
Chryfostomo
lib 6. cap. 22.
lat. 19.
o De Hæreticis
cap 9. & iiii.
eodem cap. 4.
in Sexio. Si-
manca Inftit.
Cathol. Tit. 57.
n. 10n

p Mat. xviii,
22.
q Aneas Syl-
vius hiftor.
Bohemica cap.
34.
r Cognitio
hæreticis &
ipſius puni-
tio pertinet
ad epifcopos.
Lyndwood
de Hæreticis
cap. Item
quia, verbo
Ordinarii.

ticks, as the *Arrians*, *Nestorians*, &c. why, when the¹ Em-
perour would have puniſht the furious *Donatiſts* with a
pecuniary mulct, the holy men of thoſe times ſo earneſt-
ly interceded as to procure the remiſſion. and did requi-
re their fury with ſuch love & meekneſſe, as to be able to
ſay, no one of them had payed what th^r imperiall edicts
might challenge; when of late yeares men have been
brought to the fire, children expoſed to miſery by the
loſs of their parents eſtates, even by Biſhops and other
of the Clergy, whoſe opinions were neither ſo blaſphe-
mous as the *Arrians*, nor their comportments ſo inhu-
mane as the *Donatiſts*: why they preached, men * relap-
ſed, even to a thouſand times, might yet live reconciled
to the Church; when as now ſuch as have renounced an
opinion *Rome* calls hereſy, being after found to hold it,
is * *ſeculari iudicio ſine ulla penitus audientia relinquendus*,
which yet is not obſerved if he be a Prince, as was *Henry*
the 4. or perhaps a private man out of their power:

22. To theſe demands I can give no other answer,
but, that their offences being againſt the holy Trinity, the
pious Biſhops of thoſe times, as men who watched for
ſoules, did content themſelves to denounce what was
hereſy, but having done that, finding it not received, to
leave the puniſhment to him who aſſures it ſhall go
worse with *Sodom* and *Gomorrhah* then thoſe reſuſed their
inſtructions, and under him to the Secular magiſtrate, did
likewiſe follow his precept, in forgiving even to 7 ſeven-
ty times ſeven times: when on the other ſide, the opini-
ons of theſe later hereticks (as they call them) be rather
againſt men and their Inſtitutes, then God, as that 1 *Ro-*
manum præſulem reliquis epifcopis parem iſſe, Purgatorium
ignem non inveniri, Celebritates ſanctorum rejiciendas, Te-
juniis ab eccleſia inſtitutis nihil iſſe meriti &c. and a per-
ſwaſion gained, none but the Eccleſiaſtick can * puniſh
Hereſy, who judge the oppoſer by the law of man, how-
beit they ſtyle it Chriſtian, yet how it agrees with divi-
nity

nity I remitt to the Canonists decision. In the mean time I cannot but observe, ^f *Simanca* finds nothing out of ^f *Cathol. Instit.* holy writ, but onely in divine *Plato* lib. 10. *de legibus*, to ^{Tit. 37.} maintain the position that *semel tantum hereticis paenitentibus parcitur* &c.

23. This being then the proceeding against Hereticks in generall, it will be necessary to see how it was formerly in *England*, and how the Queen found it. First, it will not be unfit to premise, ^t that from the Conversion of the *Saxons* to the year 1166. no heresy was ever known to have been in *England*; insomuch as we may safely conclude, whatever doctrine we meet with in the publick homilies of the Church, or other writers of elder times, must be esteemed catholick, however it now stand censured: but in that year about xxx *Dutch* came hither, that detested baptism, the Eucharist &c. who being convict by Scripture in an episcopall councill called by the King at *Oxford*, were remitted to his disposition, that caused them to be whipt, and burnt in the face, and a command given none should either receive or relieve them, so that they miserably perisht: which severity his Ma^{ty} did not think fit afterward to extend to those were then called *Publicani*, as I have before ^u shew'd, though there were many in his dominions. ^{Neubrigensis lib. 2. cap. 13.}

24. For the punishment of Hereticks, it cannot be doubted by the common Law (that is the custome of the Realm) of *England* to have been here, as in other parts of the world, by consuming them by fire. ^x *Balaus*, from the testimony of a chronicle of *London*, reports one of the *Albigenses* to have been so made away there 1210. to which the ^{De Script.} learned *Camden* seems to allude, when he sayes more dyed in Queen *Maries* time, then this nation had seen ^{Brit. Cent. 3. cap. 65. in Appendice. Apparatus. Elizab.} *ex quo regnante Iohanne Christiani in Christianos apud nos flammis servire ceperunt*. The same *Paramo* saith is made good by an epistle of *Tho. Waldensis* to *Martin* the 5. but I have not seen it; I am sure in

y Lib. 3. de
corona cap. 9.
n. 2. fol. 124.
a. Britton cap.
9.

z Lib. 1. cap.
29. in fine,
p. 46.

a Hist Angl.
lib. 19. p. 382,
39.

b Rot. Parl.
2. Hen. 4. n.
29.

c Typodigma
Neustria an-
no 1401. p.
158, 9
d 2. Hen. 4.
cap. 15.

e Rot. Parl.
2. Hen. 4. n.
110.

that *Waldensis* I use it is not found. But of the truth of the thing there is no question; for *J Bracton* writes of an Apostate Deacon, that in a Councell held at *Oxford* 1222. by *Stephen Langton* was first degraded, and then by the Lay committed to the fire: with whom for the thing agrees *a Fleta*; yet, by the way, where you read in him *per manum comburentur clericalem*, it is to be *Laicalem*, for so is *Bracton*. out of whom he transcribed it, agreeing with the continuall practise both of this and other nations; for the Clergy meddles not with execution.

25. In *Edward* the 3^d dayes, about the year 1347. *a Polydore Virgil* testifies two *Franciscans* to have been burnt, *quod de religione male sentirent*. Neither did *WVilliam Sastry*, a relapsed priest, dye by any statute-law 2. *H. 4.* but convicted in a provinciall councell of th' Archbishop of *Cant.* the writ *de haeretico comburendo*, bearing date the 26. *February*, was by th' advice of the Lords Temporall sent to the *Major of London* to cause him be executed, *b attendentes*, sayes it, *hujusmodi haereticos, sic convictos & damnatos, juxta legem divinam, humanam, canonicam instituta, & in hac parte consuetudinaria, ignis incendio comburi debere &c.* But where *c Walsingham* speaks as if he dyed during the sitting of the Parliament, by vertue of *d* the law then made against hereticks, the historian is without peradventure mistaken; for that Parliament, begun about the 20. *January*, ended the 10. *March* following, did expressly provide, on the petition of the Commons, *e qe touz les estatutz & ordenances faitz ou affaire en cest Parliament qe sont penalz, ne tiegnent lieu ne force devant le feste de Pentecoste prochain venant, les queles en le meisme temps puissent estre proclamez:* to which the answer is, *le Royle voet*. So that certainly he could not dye by that law, which was not to take effect till so long after.

26. But I confesse I did a little doubt of two particulars:

lars: The one, whether by the common Law a Lay man could be sent to the fire for any conviction by the Ecclesiastick; for all the undoubted precedents I have met with (unless that of the *Albigenses* were otherwise) were of some Clerks, within the pale of the Church, that were so punish'd; and *Bracton* and *Fleta* both agree, *Clerici Apostata comburantur*; whose words being penall, I conceived *stricti juris* not to be construed by equity. But indeed *Fleta* elsewhere speaks more generally, *Christiani Apostata * detrectari debent & comburi*; and *Britton* of *Miscreants* so to be served, without distinction of the quality; with whom *S^r Edward Cook* concurs. Another thing I questioned, whether any Bishop within his Diocese alone could convict one of heresy before *2 Hen. 4. cap. 15.* (of which hereafter:) for whatever the power of the Ordinary was, there is very little example of his putting it in exercise before the times of *Vickliff*.

27. Who began to be taken notice of about the end of *Edward* the 3. or rather the beginning of *Rich.* the 2. in whose doctrine, at least that they fathered on him, though there were good Corn, yet was it not without Tares. But when it grew common, and to be hearkned unto, the Prelats laboured to procure a law, his Majties Commissions should be directed to the Sheriffs and other his Ministers, *to arrest all preachers, their fautors &c. to hold them in prison, till they will justify themselves according to reason, and the lawes of the holy Church.* How this past I should be glad to learn; for not onely the printed statutes, but the Roll of *Parli^{mt}* expressly mentions the Commons agreeing to those Acts, yet the next meeting they do disclaim to have given any assent unto it, *quod non fuit unges assentus ne grantie par les coës, mes ce qe fust parle de ce fust sanz assent, de lour qe celuy estatut soit annulez*: to which the Kings answer is, *y plest au Roy.* How it fell out this latter was not counted an Act, & *S^r Edward*

* I read in decretarian, not as the print, detrectari. f Cap. 9. fol. 36. b.

g 5. Ric. 2. cap. 5. fol. 2.

h 5. Ric. 2. cap. 1. i Rot. Parl. lendemain lendemain 5. Ric. 2. n. 11. i Rot. Parl. Oaves St. Michel. 6. Ric. 2. n. 12. k Cook Insf.

1 i & 2. P.
 3. M. cap. 6.

Cook hath shew'd, which tells us why it past again without opposition in ¹ Queen *Maries* dayes. I wish that learned Gentleman had given his opinion how the record came to be so faulty; as to affirme a concurrence of the lower House to that they never assented.

m 1 Hen. 4.
 cap. 15.

n 25 Hen. 8.
 cap. 14.

28. In King *Hen.* the 4th time his successour, that law past, which greatly increased the power of the Ordinary, allowing him to imprison, fine, determine all causes of heresy, according to the canonick Decrees, within three moneths: on which words Canonickall Sanctions the Bishops so behaved themselves, ⁿ That the most learned man of the realm, diligently lying in wait upon himself, could not eschue and avoid the same act and Canonickall Sanctions, if he should be examined upon such capricious interrogatories as is and hath been accustomed to be ministred by the Ordinaries of this realm, in cases where they will suspect of heresy &c. Upon which, if any did refuse obedience to his Diocesan in ought, ^o as paying a legacy &c. there would be means found to bring him within the suspicion of heresy. And certainly the proceeding of some Diocesans upon this statute gave quickly scandall; for onely nine yeares after, we find the Commons petition,

o Cook Instit.
 3. cap. 5. p. 42.

.. Rot. Parl.
 11. Hen. 4.
 n. 29.

*.. que pleaste a n're souveraigne Seig^r le Roy grantier, que si ascun soit ou serra arreste par force de l'estatute fait l'an de vostre regne seconde, al requeste des Prelais & Clergie de vostre Royalme d' Engleterre, q'il purra estre lesse a mainprise, & faire sa purgation franchement sanz destourbanee d' ascun en mesme le Conte ou il est arrestu. & que tieles arrestes soient desore en avant faitz en due forme de ley, par les Viscounts, Mairs, Baillifs ou Conestables nostre Seign^r le Roy, sanz violent affray, our force & armes, en depredation de leur biens, oy autre extortion ou injurye queconque en celle affaire. But to this, le Roy se voet ent aviser is all the answer given. But whereas .. *Walsingham* speaks of this Parliament as infected with *Lollardy*, certainly to me there is no such thing appeares in the Roll, but rather the contrary. But I*

.. Walsing.
 Anno 1410.
 p. 422.

confesse

confesse I did think before that law of *H. 4.* no Bishop in his Diocese, without a Provinciaall Councell, could have convicted any man of heresy, so as to have caused him been burnt; for mans life being a point of so high concernment in the law, and heresy laying so great an imputation on the party, it seemed not to me probable, every angry Bishop in his Court should alone have power of determining what was by the canonically Sanctions so esteemed, and whose words or writings could admit no other sense then hereticall: and with this it seemed to me the practice did concur, for the Deacon burnt at Oxford suffered after conviction, in a Provinciaall Synod; and the conviction of *William Sautry* shewes plainly to have been after the same manner, & the Writ running, *Cum venerabilis pater Thomas &c. de consensu & assensu, ac consilio corporis episcoporum, ac confratrum suffraganeorum suorum, nec non totius cleri Provinciae sue, in concilio suo provinciali congregato, juris ordine in hac parte requisito in omnibus observato &c.* intimating (as it seemed to me) if otherwise, the Order of law had not been observed. And I did ever conceive this Law had increased the Power of the Ordinary, as well in permitting him singly to pursue the canonically Sanctions in convicting an hereticke, as in fining and imprisoning of him; especially the statute 1 of *Q. Mary*, that gave it life after the repeal of *Hen. the 8.* affirming, *before such revivall the Ordinary did want authority to proceed against those that were infected with Heresy.* But I have since found, better opinion it was otherwise.

29. After this 2. *Hen. 5.* a Parliament at *Leicester* enacted, *The Chancellour, Treasurer, Justices of the peace, Sheriffs, &c. should take an Oath for destroying all manner of Heresies, commonly called Lollardries, to be assistants to the Ordinary therein; Persons convicted of Heresy to loose their fee simple land; Justices of the Kings Bench, of the Reace and of Assize, to enquire of all holding any errors or heresies.*

P. R. Parl.
2. Hen. 4. n.
29.

q. 1. & 2. P. &
M. cap. 6.

Cook Inst.
3. cap. 5. p.
39.
[Stat. 1. Hen.
5. cap. 7.

heresies as Lollards, their maintainers, receivers, fau-
tors, &c. and for that end a clause to be put into the Com-
missions of Iustice of the Peace: yet forasmuch as the cog-
nizance of heresie, errors, and Lollardries belonged to
Iudges of holy Church, and not to the secular, the inditement
taken by them not to be euidence, but for information be-
fore the spirituall Iudge, into whose hands the person suspe-
cted to be delivered within ten dayes after his enditement;
every man empanell'd in the Enquest for the tryall of them
to haue in England 5 pounds, in Wales forty shillings in
land by the year &c. Which three lawes were each re-
pealed by Hen. the 8th or Ed. the 6. and again restored by
Q. Mary, under whom, by vertue of them, had in lesse
then three yeares been spoyled for religion more Christi-
an bloud of her subjects, then in any Princes reign since
Lucius.

30. Things standing thus when Queen *Elizabeth*
cameto the Crown, the Ecclesiastick auctority exerci-
sed at home and abroad with rigour and austerity, rather
then Christian mildnesse, still to permit that, was the con-
tinuing a fire to consume her people, and yet for every
one to think and do without controule what him list,
was to let loose all reins of government, to leave open a
door for sedition to disquiet her Kingdome, and the
Commonwealth perhaps nor to be ever in peace: her
Maj^{ty} therefore took a middle way to agree with the pri-
mitive times, and yet not let every profane humor dis-
turb the Church, by erecting a Court with power to
visit, reform, redresse, order, correct and amend all such
errors, heresies, schismes &c. which by any spirituall or ec-
clesiasticall power, auctority, or iurisdiction can or may law-
fully be reformed, ordered, redressed, corrected, restrained
or amended; yet restraining them from adjudging any
thing to be heresy, that had not been heretofore adjudg-
ed such by the plain words of the canonickall Scriptures, or
by any one of the first four generall Councils, or by any other
generall

2 Stat. 1. Eliz.
cap. 1.

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generall Councell, wherein the same was declared hereby by the expresse and plain words of the canonick scripture, or that should hereafter by the Parliament with the assent of the Convocation &c.

From whence ariseth a question of some intricacie, how it came to passe those times spake with so great submission to the four first generall Councells, and yet so restrained the other, without expressing which they were, nor any other particular concerning them. For the solution of which, we are to know, those have been ever looked on by the Catholick Church with more reverence then any other that ever yet were held. The * Emperour *Iustinian* 341. declared which they were, and that he did receive *earum dogmata sicut sanctas scripturas, & regulas sicut leges observamus*; who made not the like mention of the fifth, though * called by him, and held in his time. Neither did *Gregory* the great, who did reverence them, & *sicut sancti Evangelii quatuor libros*, make the same esteem of the fifth; for having made honourable mention of it in a letter to a Queen of *Lombardy*, sent by a Bishop of *Milan*, the Bishop gave it her not, on an opinion she might be scandalized at his naming of it: upon which & *S^t. Gregory* sent him word he did well, and in that altered his epistle. And the year following, viz. 596, the People of *Ravenna* opposing one *Maximianus* in being their Bishop, as not of sound belief, in that he did not carry so great veneration to the Councell of *Chalcedon*, he doth assure them of the contrary, that he did receive those four Councells, but makes no mention of the fifth. I do not deny but * the faith of the fifth and sixth were by this Church approved, yet never any of them had that great reverence yielded their dictats the first four had, which are therefore said to have been *Synodi firmissima* by *Elfrick*, in his Canonsto *VVulfstn*.

32. But these, however of this high esteem, yet had not the name of generall appropriated unto them till

Y

long

u Novel.
131. cap. 1.
& in Cod.
de summa tri-
nitae & fide
Catholica leg.
9.
x Concil. gen.
Roma, 10. 2.
p. 524, col. 1.
E.
y *Gregor. lib.*
1. epist. 24.

z *Gregor. lib.*
3. epist. 37.
Lib. 5. In-
dict. 14. epist. 2.
a *Beda lib. 4.*
cap. 17. Con-
cil. Calcut.
cap. 1. apud
Spelm. p. 293.
b *Canones*
Elfrici ad
Wulfstanum a-
pud Spelman.
Concil. Can.
33. p. 587.
vide *Egberti*
Archiepisc.
de sacerdotali
iure cap. 4.
ibid. p. 278.

long after; for certainly that distinction was not suddenly brought into the Church, at least in that sense it is now taken, many Synods by our writers being styled generall, to which yet the obligation was never of that nature, as if they did not or could not erre. * *Eadmerus* writes, *Anselm* told *VVilliam* the 2, *generale concilium Episcoporum ex quo Rex factus fuisti non fuit in Anglia celebratum*: and the like phrase is used very frequently for *English* councells not onely in him, but in our other eldest and best historians, as *Flor. VVigorniensis*, * *Simeon Dunelmensis*, *Huntington*, & *Gervas. Dorobernensis*, *Hoveden*, &c. *Mat. Paris* speaking of a councell held at *Westminster* 1175. calls it *Concilium generale*, which in *Diceto* is changed to *Concilium Regionale*, and in the margin added (out of the M^s. copy sometimes belonging to *S^t. Albans*, and now at *Saint James's*, (the best and fairest I ever saw) and which I conceive *Mat. Paris* himself used) *solum Papa est concilium generale*, *Romanæ ecclesiæ* & *Constantinopolitanæ est concilium universale*: which I know not how he will make good, having ¹ the 3^d and 4th Councell of *Carthage*, ² and one held there 403. the Councell ³ of *Matiscen* and others to contest with, which being no other then particular, as we now esteem them, have in their acts the titles of being universall Councells. So the 4th Councell ⁴ of *Toledo* is said to have been generall; as by *Eymericus* a ⁵ Councell in *Tarragona*.

33. Now of such as have been so called, it is manifest the value set on them is altogether vanished, and was so long since. ⁶ *Malmesbury* records, the Councells held by *Anselm* were in his time become *obsoleta*, their credit lost: and so we may say of the rest, for ⁷ *Lyndwood* is very clear no *English* Councells oblige this Church, before 1222. *Stephen Langton* held one at *Oxford*. As for those which the Popes called as *Patriarchs* of the West, which *Diceto* conceives were properly generall, the rite

of

c p. 24, 7.
d Anno 1044.
p. 405.
e Anno eod.
fol. 180, 23.
f Hunt. fol.
226. b. 3.
g Ger. Dor.
col. 1369, 62.
h Hoved. Anno 1044. fol.
252, a. 35.
Anno 1200.
fol. 458, b.
18.
i Hist. minori
& majori, p.
131. 19.
k Diceto col.
585, 63.
l To. 1. Concil.
con. Carib.
3. cap. 7.
concil. 4. in
promio.
m Ibid. Honor.
Augusto &
Rumorido
Coff.
n Tom. 2.
Concil. Cyab.
c. 20.
o Ibid. in
promio.
p Director.
par. 2. quæst.
36. in fine p.
q De vit.
Pont. in An-
selmo. fol.
129, b. 30.
r De panis,
cap. ad hæc,
verbo mini-
me admittit-
natur.

of former times was, never to send hence more then four Bishops unto them; which when it came in question 1179. *Episcopi Angliæ constanter asseruerunt, quod ad generale concilium Dom. Papa quatuor Episcopi de Anglia tantum Romam mittendi sunt*: which is so full a testimony of his having no absolute power over our Bishops, not so much as to cause them meet in counsell, as there cannot well be a greater; and therefore when he imposed the oath (of ^t which before) on them, one clause was, *Vocatus ad Synodum veniam, nisi prædictus fuero canonica prædictione*. Yet in after Ages the going thither did onely remain at the Princes pleasure, * who gave them authority *consentiendi, & si opus fueris, dissentiendi his quæ juxta deliberationem dicti concilii inibi statui & ordinari contigeris*. All which I have spoke of generall Councils, that the Reader may know, when he meets that phrase in any author, he is not necessarily to conclude him to have conceived an obligation of following whatever they said, nor that he held it to have been void of Errour; for it is unquestionable, they and we give the name to such Synods as were esteemed full of imperfections, far from that freedome ought to be in *Generall Councils*, to whose Canons they did not hold themselves tyed.

34. But because in these cases examples of former times do more convince mens judgements, then present affirmations, to give some instances, not of other then of such as have been * lately printed, and with that title, at *Rome*; as the Council of *Vienna* 1311. which by : *Gisburnensis*, who lived about that time, is noted to have been nothing lesse then a free Council: the book is not printed, I will give you the whole therefore as I find it in him.

Dominus Papa Clemens tenuit concilium suum Viennæ Anno Dom. Mcccxi. primo die mensis Octobris: in quo quidem concilio tres fecit sessiones.

Y 2

I. In

f Hoveden
fol. 332. a.
55.

t Cap. 3. n.
50, 51.

u Vide Seld.
ad Eadmer.
p. 214. ex
Archivis po-
testatem com-
missam Am-
basciatoribus
ad interessend.
concilio Basi-
liensi.

x 1608 &
1612. Rem.
.. Gualterus
Hemingford
Gisburnensis.

I. In prima sessione factō sermone, exposuit Clero tres articulos super quibus erat principaliter tractandum, & consulendum; super negotio terra sancta, quomodo posset recuperari & tueri, & super ordine Templariorum, qui pro nullo habebatur; praecepitque omnibus Pralatis, & singulis qui convenerant, quod super pramissis articulis usque ad secundam sessionem deliberarent.

II. In secunda sessione facta est longa disputatio de ordine Templariorum, utrum stare posset, vel deleri de jure deberet. Et erant pro ordine Templariorum pralati quasi omnes, praeter pralatos Franciæ, qui propter timorem Regis Franciæ (per quem, ut dicebatur, totum illud scandalum fuerat) aliud facere non audebant. Erant in toto Concilio (quod Concilium dici non merebatur, quia ex capite proprio omnia fecit Dominus Papa, non respondente neque consentiente sacro Concilio) baculi pastores circa cxxx.

III. In tertia sessione Dominus Papa [sedit] pro tribunali, & ab uno latere Rex Francia, ab altero Rex Navernia filius ejus: surrexitque quidam Clericus, & inhibuit sub pena excommunicationis majoris, ne aliquis loqueretur verbum in concilio, nisi licentiatus vel requisitus à Papa. Recitatoque processu Templariorum, adjecit Papa, Quod licet ex processu præhabito ipsum Ordinem de jure delere non posset, tamen ex plenitudine potestatis Ordinem delevit, nomen & habitum, terras eorum & possessiones Hospitalariis conferendo, aggregando, & uniendo.

35. Thelike may be said of the Council of Lateran under Innocentius 3. in which there was onely recitata (as what the Pope had before concluded on) capitula y lx, quæ aliis placabilia, aliis videbantur onerosa, &c. Which with the great extortion then exercised on the prelates appeared in it, the little credit it gained in England, might justly cause & th' *Antiquitates Britannica Ecclesiæ* write it to end in risum & scomma: which words are none of *Mat. Paris*, but of the auctors; though the marginal.

y Sic Mat.
Paris Anno
1215. p. 272,
26. lege tamen
capitula lxx.
2 p. 151, 19.
edit. Lond.

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ginall note against them in ^a the edition of *Hansa* 1605. ^{ap. 158, 47.}
hath given an occasion of mistake, which should have
been placed five lines lower, as it is in that ^{*} of *London* ^{p. 151, 23.}
1572. for that he there speaks of the prelates borrowing
to satisfy the papall avarice, is as Archbishop *Parker*, or
whosoever else composed those lives, thus delivered
in ^b *Historia minori*; *Tunc autem temporis solum est* ^{b Mat. Paris.}
concilium generale: Papa vero praelatis petentibus licen- ^{hist. minor.}
tiam repatriandi minime concessit, immo à singulis auxi- ^{Mf. p. 172.}
lium in pecunia postulavit, quam recessuri cum viaticis ^{et fol. 86. five}
cogebantur à Mercatoribus curia Romanæ duris conditio- ^{89. col. 2. An-}
nibus mutare, & sic cum benedictione papali ad propria ^{no 1216. Vide}
remearunt --- per idem tempus instante festo Paschali, &c. ^{Abbaum vi-}
^{tas pag. 117.}
^{39, 43.}

36. This I have the rather transcribed, because some
are of opinion that Councell ended 1215; which cer-
tainly it did not till towards Easter the year following;
and then too abruptly, the Pope called away on a sud-
dain for appeasing the wars growing in *Italy*, the 16 Iu-
ly 1216. dyed: which makes it without either time when
it began or ended, nothing being fully concluded bur
th' expedition against the Sarazins, for the recovery of
the Holy land. Of this I have made the more particular
mention, for that having given advertisement of it to
Doctor *Wats* (who hath with great sincerity and judg-
ment put out *Mat. Paris.*) that he might clear the Arch-
bishop in his *Adversariis*, I know not by what fate he
applies his note to pag. 138, 5. which refers to the
Councell held there by *Alexander* the 3. 1179. when
it should have been to pag. 272. or pag. 274. 6. and thinks
he called the lives of the Abbots the *Historia minori*; who
I am perswaded ^{*} never saw that book, but did write
candidly what he found in *Historia minori*.

37. But that this Councell was never received gene-
rally here is manifest, in that divers Canons in it were
not of force in *England*, as the 3, the 41, the 46, to which
I may adde the very first; for though ^c *Peckham* 66 years

^{*} See the pre-
face to *Mat.*
West pag. 5.
^c *Lyndwood*,
de summa
Trinitate &
fide Carho-
lica, cap. Al-
tissimis.

Y 3. after.

d *ibid. de pu-*
nitionis &
remissionibus.

e *De custodia*
Eucharist.
cap. 2.

f *Mat. Paris*
Hist. minor.
Anno 1216.
§ Barones,
p. 172. col. 2.

..Which Coun-
cell of Lateran
this was, is
uncertain, whe-
ther that under
Innocentius 2.
or this by In-
nocentius 3.
but most likely
that under In-
nocent 3. 4s
which himself
was present.

* Binius reads,
& aliis capi-
tulis, thereby
adding
strength to
every chapter

of that Council: when certain the reading should be, according to ancient copies, in prælatione Decimarum & aliis causis, referring onely to what pass there touching Tythes, and the payment of them by the Cistercian order, for land acquired after that time, which severall Acts of Parli. confirmed afterwards. As for the other constitutions there propounded, he after gives the rule with what caution they were to be expounded and recited, as they should be held expedient, and not otherwise.

after did make a constitution in that point; yet he did, to my understanding, not speak of Christs presence in the Eucharist so grossely, nor determine it to be by Transubstantiation, as the first chapter of the other doth: but of that hereafter. And whosoever shall peruse ^d *Simon Sudburies* constitutions 1378 touching confession, will find so much variation from the 21 chapter of that Synod, as he cannot think he took that for a rule not to be varied from. To which I may adde, that ^e *Peckham* provides the punishment of the negligent conserver of the holy Sacrament to be *secundum regulam concilii generalis*, meaning the 20th chapter of this I speak of; which had it been of force otherwise, he had no doubt commanded the due observance of it, not by his command added strength to the rule there given. It is true, *Stephen Langton*, to ingratiate himself with *Rome* (whom he had so much displeased, as ^f the Pope intended to remove him from his Archbishoprick on the Kings desire, but stopt on the intercession of the Court, and his being a Cardinall) did at the end of his Synod at *Oxford* 1222 enjoyne the Councell .: of *Lateran* held under Pope *Innocent*, in the paying of Tythes and other litigious * causes, to be observed, & *in Synodis episcopalis constitutiones illius concilii, una cum istis, prout videbitur expedire, [exponi volumus & recitari:]* which last words *Binius* hath changed, I know not on what auctority, to *volumus observari*, when questionlesse th' English took them for advise, not a precept: and their little regard of them appears by the particulars mentioned. Neither doth *Lyndwood* make any mention of this part, though he have, I think, all the rest were agreed there: & is it self altogether omitted in some old copies of that Council I have seen; one

one of which is joyned with the Mss. Annals of *Burton* Abbey in *St Thomas Cottons* Library. But the AAs of this Councell being, with divers others, printed at the end of the constitutions of *Otho* and *Othobon* at *Paris* 1504, and since by *Binius* transferred into his third tome the second part, this is alledged by some men, as if what past at *Lateran* had been of undoubted validity with us; when no question, what was done there hath never been taken here as the decrees of a generall Councell, like that of *Nice* or &c. but of *Innocentius* 3^m, as they stand in the Decretalls (compiled by *Gregory* the 9th his Nephew) with this title, *Innocentius* 3. in *Concilio Lateranensi*, as those by him propounded, but not fully concluded in councell, according to *Platina*, and from which this Church varied as occasion served. Yet if any shall insist this conclusion of 1222. to have been of greater validity then I speak, I must adde, that if it really were made with such an intent by the Ecclesiasticks, it cannot be thought to have obliged us more then that declaration of the Bishops 1615 did the *French*; who & having meurement delibere sur la publication du concile de Trente, ont unanimement reconnu & declare, & reconnoissent & declaront, estre obligez par leur devoir, & conscience, a recevoir, come de fait ils ont receu & recoivent, le dit concile, & promettent l'observer ensant qu'ils peuvent par leurs fonctions, & autorite spirituelle, & pastorele, and caused the same to be printed. Yet that of *Trent* had never validity in *France*, nor the other in *England*, notwithstanding what thus past the Clergy.

38. Neither was that other Councell of *Lateran* under *Innocentius* 2. ever received here: though the Pope there *h* insignem sacrorum Decretorum textum congestis, yet nimis abundans per universum orbem nequitia terrigenarum corda contra ecclesiastica scita obduravit; from whence it proceeded, that when they were divulged they did no good, quoniam à principibus & optimatibus

g *Principes des*
libres de
l'Eglise de
France p. 325.

h *Ordericus*
Vitalis lib.
13. p. 919. B.

regno

regnorum. cum subiectis plebibus, parvi pensasunt. Now that it was never received here appears, (besides this testimony) in that the marriage of a professed Nun was adjudged valid, contrary to the 7. Canon of it, and that too after it was registred in the ^k Canon Law: which shews, this Church did neither admit the Canons of forreign Councils, nor the Canon Law it self to alter their ancient customes; as is farther manifest by the statute of *Merton* cap. 9. Neither was the Councell of *Sardis* ever allowed in *England*, as is manifest by what before of Appeals, which yet by the Capitulars of *Charls* the great and *Ludovicus Pius* was even in that particular in *France*; which made ² *St. Bernard* write of them, *in multas posse eas devenire perniciem, si non summo [moderamine assitentur: Appellatur de toto mundo ad te] id quidem &c.* for so the place is to be read, as I have seen in two very good Mss, and one late printed, not as in the former editions of him, as at *Paris* 1586. By these precedents the Reader may judge how necessary it was for the Parliament to make a distinction of Councils. Now in these, with sundry of as doubtfull credit, being of late ¹ printed at *Rome*, as if they were of equall value with the first, I have thought fit to instance. And here having made mention of receiving Councils, as if that added strength unto them, it will be necessary to say something of that too, for the fuller clearing of this Church.

i *Regist. Itsep.*
fol. 166. b.
k *Apud Gratianum* 27.
g. 1. cap. 40.

1 *Carol. &*
Lud. Capit.
lib. 7. cap.
323.

2 *Bern. de*
consideratione
ad Eugenium,
lib. 3. cap. 2.

1 *Cuncil. gen.*
Rome, 1608,
1612.

m *Acts the*
xv.

n *Acts xvi. 4.*

39. The Apostles as they shewed a pattern for^m holding Councils to settle disputes amongst Christians; so *Paul* and *Silas* in their travells delivering the ⁿ Decrees by them ordained to be kept by severall Churches, shew'd it to be reasonable, such as were absent should receive what was done in any Synod, before they were obliged by it; and accordingly, in the primitive times, those were not present at the holding a synod, had the results sent or brought unto them after the conclusion taken, who did in their own Churches subscribe (finding

cell of Toledo held Anno 589, which speaks thus, *Constitutiones sanctorum conciliorum, Niceni, Ephesini, Constantinopolitani vel Chalcedonensis, quas gratissima aures audivimus, & consensione nostra veras esse probavimus, de tota corde & de tota anima & de tota mente nostra subscripsimus*: and another held there, having received with the letters of Pope Leo the 2. the sixth generall Council, invited all the Prelats * of Spain, *ut prædicta synodalia instituta quæ miseris, nostri etiam vigori manerent auctoritate suffulta, omnibusque per nos sub regno Hispaniæ consentientibus patefierent divulganda.*

41. By all this it is plain, the manner of former times was to disperse the Decrees of Councils to absent Churches, who by subscriptions were said to have confirmed, and, so far as lay in them, by suffrage, to have given strength to that such meetings had agreed unto. And as Popes did thus confirme what other Bishops had concluded in their Synods, so did they in like manner his. In the year 1095. *Urban* the 2. held a Council at *Clermont* in *Auvergne*, at which were present severall Prelats of *Normandy*, who at their return brought letters from the Synod, upon which *William* Archbishop of *Roan* caused the *Norman* Bishops to meet there, 7 who *capitula Synodi quæ apud Clarum montem facta est unanimiter contemplati sunt, scilicet quoque Apostolica confirmaverunt.* It is true, the Pope being the Patriarch of most note in the world, and of greatest dignity in the West, usually the Acts of forraign Councils were directed unto him, & which he dispersed through *Italy* and other parts of *Europe*; but his approbation was not enough to oblige other Churches, till what came from him was by themselves allowed: neither was this dispersing so appropriated to his Papacy, as if there were never any other divulging of them; the second Council of *Nice* held 787. or 788 as *Dieto* accounts, was sent from *Constantinople* to *Charls* the great, then

* Baron 10. 9.
Anno 685. n.
25.

3 Ordericus
Vitalis lib. 9.
p. 721. 2.

4 Vide Euseb.
Mediolanens.
post epist.
52. Leonis.

then onely *Rex Francorum*, and by him 792. hither, where it was rejected.

42. From hence it proceeded, that part of the Acts of one Councell did not bind some Churches, which did others; as some parts of the Councell of *Chalcedon* and *Ephesus* seem not to have been received in *Rome* in *S. Gregories* time, to which may be added some *Canons* of the 7th Councell. But I believe it will be hardly shewed from the ancients, that any Church, neither intervening in Councell by proxy, nor that did after admit of it, were ever held concluded by any, though never so numerous. Certainly none was ever held of greater esteem amongst Catholics then the Councell of *Nice*; yet *S. Augustine*, in his dispute with an *Arrian*, confesses neither the Councell of *Nice* ought to prejudice the *Arrian*, nor that held at *Ariminum* him, *sed utrisque communibus testibus, res cum re, causa cum causa, ratio cum ratione concertet*. And *St. Hilary*, comparing two Councells, one of 80. Bishops which refused the word *incarnatus*, with that of *Nice* which received it, sayes, *si contraria invicem senserunt; debemus quasi iudices probare meliora*: so not onely taking from them all infallibility, but allowing others to judge of their doings, before they submitted unto their determinations.

And this hath been the so constant observance in all times, as no age ever held the *Latin* obliged by the *Grecian* Synods which they have not received; neither doth the *Greek* Church to this day hold themselves tyed by the determinations of *Florence*, or to the many other of the *Latin* touching the procession of the holy Ghost, and other points in difference, to which they have not submitted.

43. But for that the Acts of Councells, without temporall authority to enforce the observance of them, were no other then persuasive, Princes (either on the incitation of their Bishops, or convinced of the justnesse and piety of what had past in those Ecclesiastick Assemblies)

a *Gregor.*
lib. 6. epist. 31.
or lib. 7. epist.
47. Indist. 2.
b *General.*
Council. Roman.
tom. 1. p.
684, 685. in
margine.

c *contra Ma-*
ximinum Arri-
anorum epist.
lib. 3. cap. 14.
10. 6. vide etiam
de unitate Ec-
clesiæ. cap. 16.
10. 7.
e *De Synodo*
adversus Ar-
rianos prope
finem p. 243.

d Socrat. lib.
1. cap. 6.
Theodor. lib.
1. cap. 10.

e Cod. Theo-
dos. de fide
Cathol. leg. 3.
de Heret.
leg. 6.
f n. 31.
* To. 8. in
Psal. 57.

did often by their letters exhort, or by their laws command the observance of what resulted from them. So *Constantine*, after the Councell of *Nice*, wrote that letter remains recorded in *d Socrates* and *Theodoret* to some absent Churches, for their admitting the resolutions of it: in which he tells them he had undertook that what the Romans had already, *de hisque non nisi à iustitia deus dicitur videri*, that their judgment would willingly receive. * And *Gratian*, *Valentinian*, *Theodosius* did in the year 381. by their rescripts establish the same Councell, as *Iustinian* by the law before mentioned did all the four first; which I take to be the same * *St Augustin* calls inserting them *actis proconsularibus*.

g Bellarm. de
concil. lib. 1.
cap. 15. §. At
Catholicorum.

44. Of later times Popes, having by severall arts acquired the greatest part of Episcopall power to be devolved to them, have likewise claimed it as a right belonging to the Papacy, not onely to call Councils, but to determine which are generall, who are to vote in them; and therefore though properly, *ordinarie*, none but Bishops have there (say they) *jus suffragii*, yet *ex privilegio & consuetudine* Cardinals, Abbats, and Generalls of Orders are to be allowed voice; and that there needs no other then the Popes confirmation in *Rome*, to oblige all Christians to the observance of any he shall hold out for such, as *Pius 4th* by his bull of the 18 July 1564. declared, all in the Councell of *Trent* *juris positivi* did the world from the first of *May* before, &c. And though all History agree, and the very Councils themselves assure us, the causing the *East* and *West* to meet in those assemblies, to have been ever done by Emperours, and that Princes on occasions have called the Clergy within their estates together for composing disputes in religion; yet the bare affirmation, without any real proof, hath so far prevailed with some men, as to esteem him little other then an heretick shall maintain the contrary.

45. But

45. But Kings have not so easily parted with these rights: for the State of *France*, notwithstanding the many solicitations of Popes from abroad, and their Clergy at home, hath not hitherto been induced to approve what was determined at *Trent*; however you shall hardly meet with any of the *Roman* party, but he will tell you that the points of faith there agreed upon, are received in *France*, but not of manners, and government: which is in a kind true, yet contains a notable fallacy; for the Ecclesiasticks of that kingdom finding the difficulty of procuring that Councell to passe, have in their provincial Synods, ^b *conspiratione quadam, venia in quaque Diacesi cogendi Synodos impetrata*, inserted the greatest part of the doctrinall points of it into those Councells; so that it is truth, they are indeed there received, yet not for that they were concluded upon in *Trent*, but because Episcopall Councells have each in their Diocesess established what they could perswade *nec regibus, nec supremis Parliamentorum curiis, ut Synodi istius Canones in acta sua referrent, & observandos publicarent*. Neither hath the Councell of *Florence* under *Eugenius* 4th, or of *Lateran* held by *Iulius* the 2. and *Leo* the 10, been hitherto allowed by *France*, or *England*, where the most zealously affected to *Rome*, as *S^r Thomas Moore*, have ⁱ maintained the superiority of a generall Councell above the Pope ^k in opposition to either of them; though ^l that be a point rather of faith then manners. Upon which grounds, those Councells before spoken of did not bind here, farther then what was in them hath been made good by provincial Synods within the Nation.

By all which it being certain, neither this Church nor Kingdom hath ever been tyed by the Acts of any forraign councell not admitted here, and being perhaps a thing of some intricacy, what determinations the Realm had received after the four first generall Councells, her Majesty took the way of receiving them as absolutely necess-

^b *Bochellius*
instituti operis ratio.


ⁱ See his letter to *Cromwell* at the end of his works, and the originall in *S^r Thom^s Cottons Library.*
^k *Council. Florent. Sess. 25. Council. gen. Roma 10m. 4. p. 384. ibid. Council. Later. sub Iulio 2. & Leone 10. Sess. 11. p. 175. col. 2.*
^l *Bellar. de concil. lib. 2. cap. 17. §. Ad hunc locum.*

m 1 Eliz. cap.
1.

sary, but others with such limitations as are in the statute, and for the future, nothing to be here, but what should be determined to be such by the Parliament, with th' assent of the Convocation.

C H A P. I X.

Of the farther proceeding of Queen Elizabeth in the Reformation.

1.  Hings thus settled in 1^o Eliz. the Parliament ended, the Liturgy of the Church, commonly called the book of Common prayer, reformed, and published, the

a *Canones dati
sub Eadgaro
& legibus
ejus annexi.
p. 67. Leg. Ca-
nut. cap. 22.
p. 105. See be-
fore cap. 4.
n. G. S. iij.*

Queen, ^a following the examples of her predecessors, and relying on the ancient Symbols as the doctrine of the Catholick Church, gave command the *C'reed*, the *Pater-noster* and *ten Commandements* (as the grounds for a Christian to believe, and frame his life after) should be taught her subjects, and none to presume to come to the Lords table before they could perfectly say them in *English*.

b Camden.
*Annal. Anno
1539.*

2. Hitherto to my understanding her Majesty had not done any thing not warranted by the practise of her predecessors, nor that could be justly interpreted a departing from the Apostolick faith, or indeed from *Rome* it self; where she kept an Agent, ^b till *Paulus 4^{us}* during the Parliament commanded him to relinquish the title of Ambassadour, and not to stir out of *Rome*. So that if there were any departure, it must needs be the Pope made it, not the *English*; (who was so incensed, he would not at first acknowledge her Queen, nor after permit any from her in the quality of Ambassador to reside with him, though she had not done any thing but according to the

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the ancient rights of the Kingdom, and the usages of former Princes,) But suppose (which will never be proved) her Matie to have gone farther then was fit for a Christian Prince in settling Religion, certainly she had just cause to conceive she might do it, having so many precedents of her ancestors in the case. Yet *Paulus 4th* breaks off all intercourse: some of his party first would not Crown her, then spake of excommunicating of her; indignities no Prince but must be sensible of.

3. Yet it seems, the first heat past, the Queens moderation was better received at *Rome* then at home: where the Pope, however a violent heady man, considering no doubt his own loss in breaking off all commerce with so potent a Kingdom, began to hearken to terms of accommodation. and was content things should stand as they are, the Queen acknowledging his primacy, and the reformation from him. But his death ensuing the 18 *August* 1559. left the design to be prosecuted by his successor *Pius 4th*, who by letters (sent by *Vincentius Parpalia*, a person of great experience, employed by Cardinall *Poole* in his former negotiations, and of late in that manner,) of the 5th of *May* 1560. directed *charissima in Christo filia Elizabetha Regina Anglia*, did assure her, *omnia de nobis tibi pollicere, quae non modo ad animae suae salutem conservandam, sed etiam ad dignitatem regiam stabilendam & confirmandam, pro auctoritate, pro loco ac munere quod nobis a Deo commissum fuit, a nobis desideraret, &c.* Upon this, and their relations who then lived, and had part in the action, the *English* affirm *Pius 4th* would have confirmed the liturgy of the Church of *England*: and indeed how can any imagine other? for doubtlesse nothing could have been more to her dishonour, then so suddainly to have changed what she had with so great consideration established; and the Pope assuring her, she might promise her self from him all he could do, I know not what lesse or other he could expect.

*c Tortura
Tortii, p. 142.*

*d In Camde-
ni Annot.
Anno 1560.*

pect she would ask. But where *S^r Edward Cook*, in his charge at *Norwich*, as it is now printed, sayes this offer came from *Pius 5th*, I conceive it a mistake, and should have been *Pius 4th* (as in another place he names *Clement* the 9. who yet never was, for *Clement* the 8.) and the rest of the narration there not to be without absurdities, and to be one of those deserves the authors censure, when he says, *c there is no one period* in the whole expressed in the sort and sense that he delivered it; for certainly *Pius 5th* from his coming to the Popedom 1566, rather sought by raising against her forraign power abroad, and domestick commotions at home, to force her to his obedience, then by such civil ways as we now speak of to allure her; though the thing it self is no question true, how ever the person that offer'd it be mistaken in some circumstances.

c Prefat. lib. 7. relat.

f Parallel. Torii & Torris, p. 241.

4. They *f* that make a difficulty in believing this, object it to have been first divulged 1606. 46 years after the profer of it. That *S^r Edward Cook* averr'd to have received it from the Queen her self, not then alive to contradict him. But for my part I confess I find no scruple in it, for I have ever observed the wisdom of that Court, to give what it could neither sell nor keep; as *Paulus 4th* did the Kingdom of *Ireland* to *Queen Mary*, admitted the five Bishopricks erected by her father, approved the dissolution of the Monasteries made by him, &c. of which nature no question this was. For the being first mentioned 46 years after, that is not so long a time but many might remember; and I my self have received it from such as I cannot doubt of it, they having had it from persons of nigh relation unto them who were actors in the managing of the business. Besides, the thing it self was in effect printed many years before; for he *g* that made the answer to *Saunders* his seventh book *de visibili monarchia*, *h* who it seems had been very careful to gather the beginnings of *Queen Elizabeth*, that there

g Servi fidelis subdito infideli responsio, apud Iohannem Dayum 1573. h p. 121.

there might be an exact history of her, *tandem aliquando, qui omnia acta diligenter observavit, qui summis Republicæ negotiis consulto interfuit,* relates it thus.

5. That a noble man of this Country being about the beginning of the Queens reigne at Rome, Pius 4th asked him of her Maties casting his authority out of England, who made answer that she did it being perswaded by testimonies of Scripture, and the laws of the realm, *nullam illius esse in terra aliena jurisdictionem.* Which the Pope seemed not to believe, her Majesty being wise and learned, but did rather think the sentence of that Court against her mothers marriage to be the true cause; which he did promise not onely to retract, *sed in ejus gratiam quacunque possum præterea facturum, dum illa ad nostram Ecclesiam se recipiat, & debitum mihi primatus titulum reddat.* and then adds, *extant apud nos arculi Abbatis* * Sanctæ salutis manu conscripti, extant Cardinalis Moronæ litera, quibus nobilem illum vehementer hortabatur, ut eam rem nervis omnibus apud reginam nostram sollicitaret. Extant hodie nobilium nostrorum aliquot, quibus Papa multa aureorum millia pollicitus est, ut istius amicitia atque fœderis inter Romanam cathedram & Elizabetham severissimam authores essent. This I have cited the more at large, for that Camden seems to think, what the Abbot of St Saviour propounded was not in writing, and because it being printed seven years before the Cardinall Moronas death, by whose privity (as Protector of the English) this negotiation past, without any contradiction from Rome, there can no doubt be made of the truth of it. And assuredly, some who have conveniency and leisure may find more of it then hath been yet divulged: for I no way believe the Bishop of Winchester would have been induced to write, it did consist of Paulus 4th, nor the Queen her self, and divers others of those times, persons of honour and worth, (with some of which I my self have spoken) have affirmed it for an undoubted

i Ibid. p. 70.
71. the book is not printed with pages, but they are added with a pen.

* Sancti Salvatoris Camden Anna 1560. calls him. who in the year 1562. seems to have been employed by the said Pope into France. Hist. Council. Trid. lib. 6. p. 501. and of whom mention is made in the life of Cardinall Roole.

truth, did not somewhat more remain (or at least had formerly been) then a single letter of *Pius 4th*, which apparently had reference to matters then of greater privacy. And here I hold it not unworthy a place, that I my self talking sometime with an *Italian* gentleman (vers'd in publick affairs) of this offer from the Pope, he made much scruple of believing it; but it being in a place where books were at hand, I shew'd him on what ground I spake, and asked him if he thought men could be Devils, to write such an odious lie, had it not been so. *Well* (says he) *if this were heard in Rome amongst religious men, it would never gain credit; but with such as have in their hands the Maneggi della corte, (for that was his expression) it may be held true.*

6. Indeed, the former author doth not expresse, (as perhaps then not so fit to be publish'd) the particulars those articles did contain were writ with the Abbots own hand; (which later pens have divulged) but that, in generall, it should be any thing lay in the Popes power, on her acknowledging his primacy: and certain no other could by him have been propounded to her, nor by her with honour accepted, then that of his allowing the *English* Liturgy: so that they who agree he did by his Agent (according to his letter) make propositions unto her, must instance in some particulars, not dishonorable to her self and Kingdom to accept, or allow what these writers affirm to have been them. And I have seen and heard weighty considerations, why her Majesty could not admit her own reformation from *Rome*; some with reference to this Church at home, as that it had been a tacite acknowledgment it could not have reformed it self; which had been contrary to all former precedents; others to the State of Christendom as it then stood in *Scotland, Germany, and France*; but with this I have not took upon me to meddle here.

7. Yet what the Queen did upon this message, seems to

to have given no very ill satisfaction; forⁱ S^t Edw. Carne, then in *Rome*, advised the Pope the same year to invite her to the Councell of *Trent*, promising him half the Kingdom with her own liking would receive his messenger; which yet was found otherwise: the reasons why, are some toucht by Historians, and may more at large be seen in S^t Nicholas Throgmortons negotiations, then her Ambassador in *France*. Certainly^k the French^{k 16. p. 522. p. 528.} were not altogether out of an opinion (or at least would have it thought so) of her sending to the Synod; which the Pope, however he invited her, was not a little troubled at. But the great combination of the Popish party, supported by *France* against *England*, made her see she could expect no good where they were predominant: upon which she caused the divines of her Kingdom in councell to consider of a just and lawfull reformation; who meeting 1562, reviving the Acts of a Synod held at *London* ten years before under *Ed.* the 6th, and explaining some few expressions, and omitting some points rather of dispute then faith, did conclude on 39 articles so just, so moderate, so fully agreeing with the doctrine of the primitive fathers, and with the ancient tenets and practise of this very Church in the times of the Britons and Saxons, as if any shall say no Clergy in any age or place have held out a more exact rule, he may be easly contradicted, then justly blamed, or confuted.

8. For having laid their ground, that^l holy Scripture containeth all things necessary to salvation, so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an article of Faith, &c. they do upon that Basis establish the doctrine of the three Creeds, the Nicen, Athanasian, and Apostles, heretofore ever held to contain *Ecclesiarum omnium fidem*, and that the^m Romish doctrine of Purga-^{m Art. 22.}

of Purgatory, Pardons, worshipping & adoration of Images, relics, Invocation of Saints, &c. is not warranted by Scripture, that is, are no articles of faith: and then proceed to settle such other things as are *juris positivi*, with so just a moderation, as is hardly elsewhere to be found; changing nothing for the generall, but where the practice of their own ancestors did justify their doings, without at all extending themselves to any thing where they had not antiquity their warrant.

9. Following which, they restored the cup, having the Councell of Clermons under Urban the 2, that *Corpus Dominicum & sanguis singulatim accipiantur*, the command of *Paschalis* the 2. and the practice of the English Church, where sickly people, women as well as men, were to be provided of a pipe to receive it by; as was expressly enjoined the order of the *Gilbertines* about 1200. The thing being already printed, I need here repeat no more, but onely add, that this permission of theirs was no other but a restoring to *minores ecclesias*, that is Parochial or Country Churches, that liberty Peckham had deprived them of not 300 yeares before. For I do not find any prohibition, but the Lay might ever have been partakers of it with us *in majoribus*, that is Cathedral Churches; for *q* Lyndwood in his gloss upon the English constitutions about 1430, propounds this question, *Sed numquid in istis ecclesiis Cathedralibus, & aliis majoribus, liceat non celebrantibus dum communicant recipere sanguinem Christi in specie vini? videtur ex hac littera, quod sic, argumento sumpto à contrario sensu, quod est in jure fortissimum, ut &c.* — & hoc bene putarem verum; saltem quoad ministrantes sacerdoti ministranti &c.

10. For the permitting of Matrimony to the Clergy, it is undoubted all here had the liberty of marrying, before *Lanfrank* in a Councell at Worcester 1076. did rather advise then command the contrary; which *Huntington* (who was himself the son of one in holy orders)

sayes

n Apud Ordinum Vi-
talem Anno
1095. p. 710.

a.

o. Apud Baron.
to. 12. Anno

1118. n. 2. in
nonnullis in
Appendice.

p Statuta Gil-
bertinorum
Mss. de canoni-
cis cap. 33. vi-
de adversaria.
Doctorem Wat-
filii ad Mat. Pa-
ris p. 9. lin. 6.

q De summa
Trinitate &
fide Catholi-
ca. cap. Al-
tissimus, ver-
bo minoribus
ecclesiis.

r Antiquit.
Britan. p. 98,
10. in Lan-
franci vita.
f Hunt. fol.
217, b. 26.
or a. 30.

sayes was first prohibited by *Anselm* 1102. But *multis*
presbyterorum statuta Concilii Londoniensis post
ponentes, suas faminas retinebant, aut certe duxerant quas
prius non habebant &c. so that his constitutions came
 quickly neglected, Priests both marrying, and retaining
 their wives. At which though the King were some-
 what displeased, yet soon after he took a piece of mo-
 ney of them for it, and they kept them by his leave. Di-
 vers constitutions were after made by severall Archbi-
 shops and Legats in the point, as by *Steph. Langton* at Ox-
 ford 1222, registred by *Lyndwood*: .∴ yet it is manifest
 they did secerly contract marriage, which some are of
 opinion they continued till towards the end of *Edward*
 the 3^d reign. This I am the rather induced to believe out
 of that in *Knigh-ton*, that *John de Alisworth* Clerk was
 slain by his wife and servant in his own house at *Leicester*
 1344. for which fact she was burnt, and he hanged. Now
 I conceive, had she been onely his concubine, not his
 servant, she had not suffer'd by the judgement of burn-
 ing for the murther, but hanging onely: neither can I
 interpret the word *Clericus* for other then one in holy
 Orders, prohibited marriage by the Canons of *Rome*;
 though I know, *large loquendo*, as our *Lyndwood* hath it,
omnes in Ecclesia ad divinum officium ordinati are some-
 times so styled, of which such as were *infra subdiacona-*
tum might retain their wives, but those were in *subdia-*
natu or above were to quit them. But the Canons yet
 remaining made at sundry times, from *Lausfrank* even to
Chichly, by the space of more then 300 yeares, enough
 assure us this point of *Celibat* was not easily imposed on
 the *English* Clergy, and assures us such as laid it might
 take it off again.

II. For Images, if the *Saxons* had any use at all of
 them in their Churches (for ornament, for history, &
 to which end *S. Gregory* holds they might be permitted; for
 memorials of holy men departed, (as we have of late

Eadmer, p.
94, 48.

Eadmer, p.
105, 27.
Hunt. fol.
 210, a. 26.
Saxon. Chron.
Petroburg. Ms.

De cohabi-
tatione cle-
ric. & mul-
etum, & de
Clericis con-
jugatis
Constit.

Ordoni cap.
Innotuit.

3 Col. 2584.
 7. *Clericus*
apud Leice-
striam.

Quare wib-
ber ibi were
noti be Priest of
the town that
was ibi inha-
biting there.
a De locato
& conducto,
cap. Venden-
tes, verbo Si
quis Clericus.

b Lynd. de
clericis: san-
guis, cap. 8.
Vide Monast.
cum Anglica
num. 899.
et p. 900.

c Greg. lib. 7.
epist. 109. et
lib. 9. epist. 90.

d Reply to
Harding, Art.
14. in princi-
pio.

seen) & they being only thus applyed, I conceive, & with the Bishop of *Salisbury*, the weight of the question not so great,) yet it was a thing voluntary, no command of the Churches injoyning it, till after the Conquest. And here the question is not, whether *Augustine* might or did bring the picture of our Saviours Crosse in his banner, as most Protestants yet retain it; but whether he placed them in the Church, with an intent to have worship of any kind attributed unto them: for which purpose, I confesse, I have not heard of them till many yeares after; for the vision of *Egwinus*, and the Councell of *London* setting up of Images being made good (so far as I know) by no author of any antiquity, I cannot but take it with *Baronius* for a meer figment.

c To. 3. anno
714. n. 2.
f Simeon
Dunelm. col.
111, 50.
Hoveden
fol. 232. b. 3.
Mat. West.
Anno 793. p.
283.
g Anno 788.
At Baron.
anno 787. tom.
9. n. 10. 38.
h Concil. gen.
Rom. Synod.
7. p. 661, lin.
ult.
m Ingulph.
fol. 514. a.
17.
n Lyndwood
de Hieres. cap.
Nullus quo-
que.
n Scenlo 3.
cap. 5. p. 126. 9.
o In bibliothec.
44. Cotton.

12. It is certain, f 792 the Bishops of *England* declared their dissent from the second Councell of *Nice* in point of Images, held onely 4 yeares before, according to *Diceto*: and where some interpret that they did onely condemn the worship the *Greeks* call *λατρεία*, by using the *Latin* word *adorare*; it cannot be denyed but they did reject that *ἡ εὐσεβὴς λατρεία* the Orienall Bishops had established, in which sense they used the word *adorare*, which is often, as well in holy writ as by humane authors, taken for that reverence is given a creature, as for the religious duty we only owe to the Divine Majesty: see *Gen.* xxiii. 7, 12. *Ingulphus*, a writer not long after, *Constantinopolim pervenimus, ubi Alexim imperatorem adorantes &c.* So *Arundell* in his constitutions, * *adorationem crucis gloriosa*.

13. To this narrative *Harpsfield* gives the title of *com-mentitia & insulsa fabula*, and thinks it not writ by *Sim. Dunelmensis* or *Mat. VVestminster* (he might have added *Hoveden*, the Ms. *history of Rochester*.) but that it was anciently inserted into them. For answer to which, he would be desired to produce any one old copy without it, not mangled, so as it doth *prodere furum* by wanting it:

It:

it: I have seen divers of *Howeden* Ms. some of *Math. West*, but never did one wherein it was not found, nor in the margin but in the text it self, and so it is in *Dunelmensis* his Ms. at *Bennet Colledge* in *Cambridge*. For my part, I do not know how any thing we mislike in History, may not after this manner be rejected, if a relation gathered from monuments of an elder date, which are perisht, yet cited by one who lived not so long after the time he speaks of, but they might well come to his hands, whom we find very sincere in such citations as yet remain out of more old authors then himself, ever esteemed of good credit in the Church of God, and in his narration followed *ad verbum* by those who writing of the same matter succeeded him, I confesse, I say, if this may be cast away, as a lying & foolish fable, I know not what shall gain credit. But what will men not lay hold on in a desperat shipwrack? I remember *Baronius* prest with the testimony of *Luitprandus* in the deposition of *John* the 12. by imperiall auctority, makes no question of denying the five last chapters of his 6. book to have been written by him, though never doubted for more then 600 years since he lived.

14. Another Doctor, I confesse, seems to give a more difficult objection; that *Aluinus*, who is said to have writ against the second *Nicen* Councell in the point of Images, doth in his book *de divinis officiis* say, *prosterne-
mur corpore ante crucem, mente ansa Deum; veneramus
crucem per quam redempti sumus* &c. and this from an author had written against Images, he would have imply a veneration of them (even in his time who opposed them) by the *English Church*. But what hath the reverence of the Crosse to do with the worship of Images? It is not to be denyed but Christians, in their talk and writings, did extoll and magnifie the Crosse, forced thereunto by the Gentiles, who spake ignominiously of him that dyed upon it, yet I believe it will be difficult to shew any Law

p. To. 10. an-
no 963. 203.
Anno 968, 10.

Richard
Smith Arch-
episc. Chal-
cedon. Floris
hist. Anglo.
lib. 2. cap. 7.
p. 134.
De Divinis
officiis, die Do-
rasen.

or Canon before the Conquest, injoyning the use, much lesse that attributed any religious worship unto Images.

f Concil.
Spelm. cap. 2.
p. 328.

15. It is true, the *S. Councell of Celicuith* 816. did charge *unicuique Episcopo, ut habeat depictam in pariete oratorii, aut in tabula, vel etiam in altaribus, quibus sanctis sint utraque dedicata, &c.* which was clearly for memoriall and ornament; as it hath been very common, in some Churches, to have on the wall the Image of Queen Elizabeth, and such as have built an isle or window, to have their statue or picture set up in it, which in some parts perhaps remain to this present; yet no man ever held any religious duty fit to be given them, nor any man compell'd to set them up. Now that there was no precept of the Church commanding their use, I speak from the rules of *Sempringham* about 1148. that doublelesse did not vary from the generall practise of Christians here; yet hath this expresse statute; *Sculptura vel pictura superflua in Ecclesiis nostris seu in officinis aliquibus Monasteriis ne fiant interdiximus, quia dum talibus intenditur, utilitas bona meditationis vel disciplina religiosa gravitatis saepe negligitur: cruces tamen pictas quae sunt lignae habemus.* So that it seems to me they did account all pictures so superfluous as not to have them, but onely painted crosses: & this was one of the first foundation. And in another place, which I take to be somewhat after, the buying of them and silk, as things indifferent, are alike interdicted; yet a direction how to bestow any thing of that nature should be left them: but see the words; *Nihil de serico ematur à nostris vel de nostro ad nostrorum opus, vel ad aliquid religioni contrarium, & seculi vanitatibus amminiculum, nec etiam ad quodlibet sacerdotale indumentum, nisi constet esse necessarium: Si vero datur, secundum arbitrium Prioris omnium communi utilitati & usui mancipetur. hoc idem de Yconiis vel aliis sculptilibus dicimus, quae ad beatam Mariæ Virginis vel aliorum sanctorum sunt fabricata memoriam;*

qua

f Institutiones Mss. beati Gilberti & successorum ejus per capitula generalia instituta; de exordio, ordinatione, institutione ordinis Canonorum, Sanctionum, fratrum & sororum laicorum ordinis de *Sempringham*. de canonicis cap. 15. § Sculptura.
u De fratribus cap. 13.

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quatenus gratis * grata, prout de serico praximus, ad
fororum alare, vel hospitium, vel alio apto loco honeste po-
nenda decernimus. So that it is apparent then their use was
esteemed no other then that of silk; and these two arti-
cles seem to have been resolved on nigh the first founda-
tion (being in an hand differing from some other I shall
mention) by the Founder himself.

* Sic Mss.
sed lege gratis
data, as it is
in other places
(as you will
see hereafter)
repeated.

16. In the year 1200 the house of Sixle or Sixhill in
Lincolnshire was visited by the Abbat of * Wardune, as
Commissioner of * Otho the Popes Legat; where about 20
articles were concluded for the government of the Or-
der: the fifth of which, though it gave some more liberty
then the former, yet was not without restraint: but take
it from an hand of those times. *Anno gratia MCC in vi-
sitatione facta de Sixl' per Abbatem de Wardun auctoritate
Domini Otonis Legati, statuta sunt hac firmiter observanda.
In primis, &c. cap. 5: Item inhibetur ne picturarum varie-
tas aut superfluitas sculpturarum de cetero fieri permitta-
tur, nec liceas alicubi yconias haberi; nec imagines, præter
ymaginem Salvatoris, & y. beata Mariæ, & Sancti Johan-
nis Evangeliste.* Hitherto questionlesse, the Church of
England following the doctrine of S^t Gregory, had been
taught by testimonies of holy writ, that *omne manufactum
adorare non liceat*; and though they might be lawfully
made, yet by all means to avoid the worship of them: but
see the progress.

* Wardon or
Wardun was
a monastery of
the Cister-
tian Order in
Bedford-
shire.

x Quere whe-
ther this were
that Otho was
after Cardinal,
viz. in Sep-
tember, 1227.

y Lib. 9. Epist.
9. Indict. 4.

17. Sixty eight years after this, Othobon, being the
Popes Legat in England, did in his own person visit the
chief house of this Order, and committed the others to
Radulphus de Hantseduna, the said Cardinals Chaplain,
and penitentiary, who associating to himself one Richard
* generall inquisitor of the Order of Semplingham, did in
the year 1268. conclude upon 74 or 75 heads or chap-
ters for the government of them; the 34 of which, under
the title *de ymaginibus habendis*, is this:

* Generali
ejusdem ordi-
nis de Sem-
plingham
conscripte.

Item, cum, secundum Johannem Damascenum, ymagi-

B b

nis

nis honor ad prototypum, id est, ad eum cuius est ymago pertineat, ad instantiam Monialium, & earum devotionem ferventius excitandam, conceduntur eis ymages crucifixi & beata Maria & sancti Johannis Evangelista, & quod possint habere in quolibet altari dedicato ymaginem ipsius sancti in cuius honore altare dedicatum est. Si tamen gratis desur eisdem, sicut beatus * G. de serico & de ymaginibus duxit statuendum, & celebretur ipso die festivitatis illius sancti, & die dedicationis ejusdem altaris, missa ad dicta altaria, etiamsi sint infra clausuram monialium. Thus they.

* Gilbertus.

* Contil. Nic.
cen. 2.

18. By which it is manifest, this Kingdom had not then received * the 7th Councell; for if they had, there can be no thought they would have built their Article upon *Damascens* opinion onely. But by all these we may see, Images were brought into this Church by degrees, by little and little: First they were to have none, onely wooden crosses were tolerated; then they might not buy any, but being given they might accept the image of our Lady and other Saints; then an inhibition of all Saints, except our Saviour, the Blessed Virgin, and St John the Evangelist, to which was added the image of that Saint their Altars were dedicated unto, and these onely by concession, not bought, but given. So that it is plain, they were then taken for things onely indifferent, as silk, which they might use or be without, no processions, bowings, kissing, &c. of them prescribed; but how the practice was afterward, that chapter of *Arundell* registred by *Lyndwood* may tell you, which because it is long, I shall not farther repeat, it being printed, then to adde that it is in him, lib. 5. de *Magistris*, cap. *Nullus quoque*: and in another place he propounds this question, * *Numquid ymago Christi sit adoranda cultu laetia?* and resolves, *si consideretur ut ymago, tunc quia idem motus est in ymaginem in quantum est ymago & ymaginatum, unus honor debetur ymagini & ymaginato; & ideo cum Christus la-*

3 Lyndwood
de Ecclesiis
edificandis cap.
ut parochia-
ni, verbo ima-
ginis.

ria

tria adoretur, ejus imago debet similiter latría adorari. Nec obstat Exod. xxvi. ubi dicitur, non facies tibi ymaginem nec sculptam similitudinem; quia illud pro eo tempore erat prohibitum quo Deus humanam naturam non assumpserat, &c.

19. The Synod at *Westminster* finding things in this posture; and their retention in many parts to have been joyned with a great abuse, if not impiety, took a middle course; first to condemn all manner of adoration or worship of them, (and therefore every *Sculptile* had been removed out of Churches) but whereas some use might be made of them for remembrance of histories past, to retain in sundry parts such windows and pictures, as might without offence instruct the ignorant in severall passages not unworthily preserved: which if any man have since been offended at, it must be on other grounds then I understand.

20. As they proceeded with this circumspection, not to depart from the primitive Church in matters *juris positivi*, so did they take no less care in points of opinion; for having declared which were the books of holy Scripture, they did not absolutely reject the use of the other, though they had been ^a taught by the doctrine ^b of *St Hierom* and ^c *St Gregory*; not to repute them in *Canone*, but to admit them *quia fidem & religionem adificans*, or, as they ^d say, *for example of life, and instruction of manners*.

21. For praying to Saints, however the Saxons might honor holy men departed, *eo cultu dilectionis & societatis quo & in hac vita coluntur homines*, as ^e *S. Augustine* speaks, (which what it is he explains elsew here) yet I am hardly perswaded to think they did admit any publick praying to them in the Church; for I have seen and perused three ancient *Saxon* Psalters full of prayers, but no one petition to any Saint whatsoever. ^f *Eadmerus* sayes the report went of *VV^m* the second, that *crederet*, & *publica voce assereret, nullum sanctorum cuiquam apud De-*

^a Iohan. Sa-
tisb. Epist.
172. p. 281.
285. Walden-
sis tom. i. lib.
2. Art. 2. cap.
23. n. 2. fol.
203. a. col. 2.
edit. Venet.
1571.
^b Prefat. in
proverb. Salo-
monis to. 3.
fol. 9. c.
^c S. Gregor.
Moral. lib.
19. cap. 17.
^d Art. 6.
^e Contra Fau-
stum Ma-
nichæum lib.
20. cap. 21.
10. 6.
^f Lib. 2. p. 43.
1.

g In Canon.
Missa leB. 3.
D.

.. August. de
vera religione
cap. 55. to. 1.

b Errores
Græcorum
in fasciculo
Zizaniarum
Mss. per
Thomam Wal-
dens. fol. 156.
b. col. 1. in
bibliotheca
Archiepisc.
Armach.
i Mat. Paris
hist. minor. Mf.
Ann. 1237.
C^o 1238.
Vide Hist. ma-
jor. Anno
1237. p. 457.
16. p. 465. 22.
k Mat. Paris
Hist. major. p.
392. 28.
l Art. 22.

um posse prodesse; & ideo nec se velle, nec aliquem sapien-
tem debere beatum Petrum interpellare: yet he doth not
censure this as hereticall, but onely *mentis elatio*. & Ga-
briel Biel long after confesseth in his time, some Christi-
ans as well as Hereticks were deceived, in thinking
Saints departed *nobis auxiliari nec meritis possunt nec pre-
cipius*. The Church of England therefore, following .. S.
Augustine, condemns all religious invocation of them,
as those were *non adorandi propter religionem*; yet in re-
spect they were *honorandi propter imitationem*, to retain
their commemoration, by appointing a set service for
the dayes on which it celebrated their memorialls; there-
by to provoke us to imitation of their piety, and to thank
God that left such lights, who by their doctrine instru-
cted us, and whose lives were examples for us to follow:
and in respect there are sundry Saints for whom there is
no proper office, to retain one day to praise God for the
generality of all, and beg of him that we may follow
their pattern in all vertuous and godly living. This if any
mislike, I intreat him to pardon me if I joyn not with
him; and if he will add more, to give me leave to think
he attributes to them (by what name so ever he style it)
that is onely due to the Divine Majesty.

22. For Purgatory, however it might be held a pri-
vate opinion, yet certainly as an Article of Faith it could
not be; for the *Greeks*, who have ever^b constantly de-
nyed it, were in communion with the Church of Rome
tillⁱ 1238. after which onely they began to be accounted
schismaticks, not so much for their opinions, as deny-
ing subjection to the See of Rome; for some of them co-
ming to Rome 1254. *de articulis fidei & sacramentis fidei
satis tolerabiliter responderunt*: so that questionlesse the
Historian could not then hold Purgatory an Article of
Faith, when those who did affirm *Nullum Purgatorium
est*, did give a tolerable account of their Faith. Our Di-
vines therefore charge these opinions^l onely as *fond in-
ventions*,

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ventions, grounded on no warrant of Scripture, but rather repugnant to the word of God; that is, as I have said before, they deny them to be Articles of faith.

23. In like manner, having first declared the bread we break in the holy Communion to be a partaking of the body of Christ, and the cup of blessing of his blood, they censure Transubstantiation, or the change of the substance of bread and wine, as what is not proved by holy writ, and therefore no Article of faith &c. And indeed how could they say lesse of so doubtfull a tenet, so newly crept in, that had burnt so many, was so contrary to the ancient doctrine even of the English Church, as the Saxon Homily yet remaining in an old Mss, with this title, *A book of Catholick sermons to be repeated each year*, doth undoubtedly assure us? It is true, some of late have strove to give an answer to it; as he that styled himself Bish. of Chalcedon will have the author perhaps to have been an heretick; but that the time and title confutes, all writers agreeing England to have been free from any heresy after S. Gregory, till about the year 1166. If that therefore will not do, he hath another, viz. the Sermon to make more for Transubstantiation then what the Protestants cite doth against it; yet is silent both where the words are in it, and who are the citers of them. For my part, to speak once for all, take the whole Homily as it lies, nor one piece torn from the other, and if the doctrine of it be such as he can digest, I know not why we differ. As for those two miracles, which some dislike so far as to think them insarced into the work, I confess them not to displease me at all; for if they were inserted to prove the verity of Christs body in the Sacrament, against those who held it bare bread, yet it must be after such a ghostly and spirituall manner as is there represented, without any other change in the substance of the bread and wine then is in the water of Baptism, *p. 33.* not bodily but ghostly *pag. 38. 36.* a remembrance

Bb 3

of

no Art. 28.
n Vide Bellar-
min. de Euc-
char. lib. 3. cap.
23. §. secunda-
dit.
o Liber Catho-
licorum sermo-
num per annum
recitandus. p.
355.
p Flor. Hist.
Eccles. &c.
lib. 1. cap. 24.
p. 91.
q Ab hac &
aliis pestibus
Hæreticis
immunis
semper exsti-
tit Anglia,---
ubi hanc in-
fulam expul-
sis Britonibus
natio posse-
dit. Anglorum,
ut non jam
Eritannia sed
Anglia dice-
retur, nullius
unquam ex
ea pestis hæ-
reticæ virus
ebullivit: sed
nec in eum
aliunde usq;
ad tempora
Regis Henri-
ci secundi---
introivit.
Newbrigen-
sis lib. 2. cap.
13. Vide Pic-
seum de scrip-
t. Anno 1159.
p. 220.
r Editionis
Johannis Dayi
in off. 400.

of *Christs* body offered for us on the Cross. p. 46.

f p. 90. vide
Malms. de
pont. lib. 1. in
vita Odonis fol.
114, b. 36.

† De unitate
Eccles. cap. 16.
10m. 7.

24. And this may serve for answer to that his *Achilles*, by which his doctrine of Transubstantiation [†] manifestus patebit, of Odo Archbishop of Canterbury about 940. converting miraculously the Eucharist in formam carnis, ad convincendum quosdam, qui suo tempore ceperunt de ea dubitare: to which I shall first remember, that when † *St Augustine* was prest with certain miracles of *Donatus* and *Pontius*, which the Donatists urged to prove the truth of their doctrine, he gives this answer, *Removeantur ista vel figmenta mendacium hominum, vel portenta fallacium spirituum; aut enim non sunt vera quae dicuntur, aut si haereticorum aliqua miracula facta sunt, magis cavere debemus*; and after a learned discourse, he tells of some in the Catholick Church had happened in the time of *St Ambrose* at *Milan*, upon which he gives this grave censure, *Quaecunque talia in catholica fiunt, ideo sunt approbanda, quia in catholica fiunt; non ideo ipsa manifestatur catholica, quia haec in ea fiunt. Ipse Dominus Iesus cum surrexisset à mortuis, & discipulorum oculis videndum manibusque tangendum corpus suum offerret, ne quid tamen fallacia se pati arbitrentur, magis eos testimoniis Legis & Prophetarum & Psalmorum confirmandos esse judicavit, ostendens ea de se impleta, quae fuerant tanto ante praedicta, &c.* and a little after, *Hoc in Lege & Prophetis & Psalmis testatus est, hoc ejus ore commendatum tenemus, Haec sunt causa nostra documenta, haec fundamenta, haec firmamenta.*

u Vide Chamier. de Sacramentis lib. 10. cap. 1. 2.

25. To apply this to our case, the Church Catholick hath ever held a true fruition of the true Body of *Christ* in the Eucharist, and not of a signe, figure, or remembrance onely, but as the *French* confession, *que par la vertue secrete & incomprehensible de son Esprit, il nous nourrit & vivifie de la substance de son corps & de son sang, &c.* and therefore we can agree to these verses:

Christ

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*Christ was the Word that spake it,
He took the Bread and brake it :
And as that Word did make it,
So I believe and take it.*

Here is then a Catholick Sermon, commanded to be read in the Church many years before the word *Transubstantiation* was heard, as the doctrine of it, teaching me this participation with *Christ*, however true, yet is not fleshly, but spirituall: if therefore this miracle were not to convince those held the communicating of *Christ* in the Sacrament, to have been no other then fantastickall, and the bread to have been, and conveyed no other to us then bare bread, must not I, according to S^r *Augustine*, avoid it as the fancies of lying men, or the operation of deceiving spirits? &c. And this as it may serve in generall for all miracles, so in particular for that of late divulged, of a poor mans legg cut off in *Spain* and buried, yet four years after restored: which if it be not some imposture, as the golden tooth in *Silesia*, or of *Arnald Tilly* (taken in *Francis* the 2^d time not onely by others, but by the very wife of *Martin Guerre*, for her husband, and which held the Parliament of *Tholous* so much perplexed to resolve) we must not (according to this holy mans doctrine) believe for that or any of the like nature, farther then is proved by the Law and the Prophets, &c. Yet there is one thing in my opinion very considerable; what the Apostles did, were such, and in those places, no man could deny them: but these the Church of *Rome* holds out for confirmation of their religion, are either in corners, as *Garnets Face* in the Eare, with so dark proofs, as when they are looked into, *res tota cum contemptu dimissa est*; or else done in *Italy*, or *Spain*, where the Inquisition will suffer none but themselves to examine the fact: whereas if they followed th' Apostles example, they should be in *England* or *Germany*, that the Protestants might say, *indeed a notable miracle hath been done*
by

by our Lady, is manifest to all, and we cannot deny it. Acts iiii. 16.

* I.R. his spe-
cacles to Sr
Humfrey
Lynde, p.
135. §.4.

y p. 143. cap.
9. §.10.

* N. 23;

* Index cry-
storum antho-
nim, Romæ.

a Tom. 2.
p. 450.

b p. 462.

26. * Another will have that homily, at least what he takes on him to confute, to contain no other then Catholick doctrine; and then falls upon the Archbishop of *Armagh*, whom he conceives to have ill translated it out of the Latin, in which language there is not now found any ancient copy of it; insisting, that though it were printed at *London* 1623. it was not to be heard of when he writ, which was about 1631. insinuating as if more might be said, if he could see the author himself. For the first of these, it must be said to contain Catholick Doctrine on the grounds before; but if it be that the Church of *Rome* admits for such, I am glad to understand that from him. For the Primat of *Ireland*'s translating the Latin to the disadvantage of the *Romish*, I shall give no answer, but that his *English* are indeed some parts of that sermon, but the *Latin* pieces of *Bertram* so agreeing with them, as they were undoubtedly taken out of him, (by which he gives a far elder testimony to that author then *Oecolampadius*) who was, no question a Catholick Doctor; but being so why is he prohibited: by the Roman Index? why if at all permitted, must it be *exco- gitato commento*? For the other, that it could not be had in *London* only eight years after it was printed, I can say nothing, but some men will not hear that they mislike: for that Homily, of which (if he say any thing) he speaks, first set out by *John Day*, with the subscription of 15 Bishops attesting the truth of the Copy, after 1623 reprinted by *Henry Seal*, alwayes in the book of *Acts and monuments* &c. in the life of *Hen. the 8.* and of late by Mr. *VVhelock* put into *Latin*, and taken without any intervening transcription from the originall *Saxon*, (that he might not vary in a tittle) was with his translation of it printed at *Cambridge* 1644. amongst divers other excellent notes of that learned man upon *Beda*, that such as under-

understand not the language, may in that point see the doctrine of our forefathers.

27. A third Doctor, who cannot deny but it makes directly against Transubstantiation, gives an answer I could not have expected; yet in my opinion more ingenious; *That it is unreasonable to produce the forcelesse authority of these Saxon Homilies, which have no warrant of truth from any other but from our selves; and the margin, These Homilies were never heard of, but now of late amongst Protestants, onely framed and printed by themselves, without the warrant of any one indifferent witnesse.* This is, I say, what I could not have looked for. Can any man imagine two Archbishops, thirteen Bishops, besides divers other personages of honour and credit, could have been induced to subscribe so palpable a lye? as it must be, if this and the other passages, by them there testified to be found in the ancient monuments of this Church, were lately framed. But the old books that yet remain writ above five hundred yeares since, do enough vindicate the Protestants, in that which I dare say no one of them who alledge it do in their hearts believe, not to have been extant in them, as the Archbishop first sent them to the Presb.

28. Of the little credit the Councell of Lateran in this point gained here, I have touched before: neither did Peckham's constitution, *sub panis specie simul dari corpus* &c. speak home, nor was the thing ever absolutely determined with us till 1382: so that the opinion of Transubstantiation, that brought so many to the stake, had not with us 140 yeares prescription before Martin Luther began; for in that year Wickliff having propounded, *quod substantia panis materialis aut vini manet post consecrationem* &c. the Archbishop taking it into consideration, did not think fit to condemn the Tenet, without farther advice with the University of Oxford, where *libratis singulis*, every saying weighed, (and in especiall,

c Malon his
Reply to the
Archbishop
of Armach, p.
320.

d In bibliotheca publica Cant.

e Chap. 7. n. 37.

f In fascicula
veteriorum
Mss. per
Thom. Wal-
dens. & Hen.
Knighton,
qui tunc vixit
scripsitque, col.
2648, 3. &
2554, 44.
g Knight.
col. 2649, 31.
h col. 2650,

verget

C c

as it 49.

i Col. 2634.

k 2632, 67.

l Col. 2633.

m Vide Bellar.
de Eucharistia
lib. 4. cap. 24.

g. ult.

n Noluit

Arch. plenarie
procedere.

o Imposterum,
de cetero tene-

at.

p Tandem fi-
naliter.

q A (sparing
discourse pag.

13. writ by
a secular

Priest against
s^e Jesuits

Anno 1601.

.. In Confess.
contra Wick-
liff. in biblio-
theca Archie-
pisc. Armach.
Mss.

as it seems, thoseⁱ concerned the Eucharist) he did con-
demn some as hereticall, others as onely erroneous, and
farther, *singulos defensores eorum imposterum senten-*
tia excommunicationis innadatos fore, and gave com-
mand, *ne quis de cetero cujuscunque status &c.* —
hæreses seu errores prædictos vel eorum aliquem teneat, do-
ceat, prædices seu defendas. The^l Chancellor likewise of the
Academy repeating *VVickliff's* opinions touching the ho-
ly communion, shews they had been diligently discuss't
by Doctors in Divinity, and professors in the Canon
Law, *ac tandem finaliter est compertum atque iudicio om-*
nium declaratum, ipsas esse erroneas, fidei orthodoxa con-
trarias, & determinationibus Ecclesia repugnantes: and
then after all this search, delivers the doctrine of Tran-
substantiation as the conclusion agreed to be held, *Quod*
per verba sacramentalia à sacerdote prolata, panis & vinum
in altari in verum corpus Christi & sanguinem transub-
stantiantur, seu substantialiter convertuntur *se, quod post*
consecrationem non remanent in illo venerabili sacramento
panis materialis & vinum secundum suas substantias, sed se-
cundum species earundem. And this I take to have
been the first plenary determination of the Church
of England in the case, which yet how well it will be
liked by such as hold the manner of conversion to be by
a^m succession of Christs body to the substance of the
bread; I leave others to dispute. But certainly the
Archbishop notⁿ adventuring to proceed in it a-
lone, nor by his own councill, by^o his extending
what he did onely to the future, both for punishment
and Tenet, and after^p long enquiry concluding the
truth of it, enough proves it not to have been in
former times fully resolved on in this Church; so
that we may say of our Ancestors, as^q the Jesu-
ites here about some 60 yeares since did of the Fa-
thers, *rem Transubstantiationis ne agisterunt.* And
it may not here unfitly have a place that. . . *John*

Tislington

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Tislington a Franciscan, whom *Pisens* (from *Balens*, not *Leland*, as he would have us think) affirms to have been an assistant in this dispute at *Oxford* 1382, or as some 1381. cannot deny the truth of the assertion, *quod panis & vinum remanent post consecrationem in naturis suis, adhuc servatur Laicis, & antiquitus servabatur.* And here it is not unworthy the remembring, that by the law of the 6 Articles 31. *Hen. 8.* cap. 14. (containing in effect the body of Popery) no man was to dye as an Heretick but he who denyed this Tenet; all others onely as felons, or men endangering the peace of the Kingdome, by reaching contrary to what was publickly received. By which it likewise appears, in fixing th' imputation of Heresy, the *English* looked on their home Determinations, not those of any forreign Church.

29. But I do not take upon me to dispute matters controvertall, which I leave as the proper subject to Divines; it shall suffice onely to remember, the Church of *England* having with this great deliberation reformed it self in a lawfull Synod, with a care as much as was possible of reducing all things to the pattern of the first and best times, was interpreted (by such as would have it so) to depart from the Church Catholick; though for the manner, they did nothing but warranted by the continuall practice of their predecessors, and in the things amended had antiquity to justify their actions: and therefore th' Archbishop of *Canterbury*, in a provinciall Synod begun in *S. Pauls* the 3 of *April* 1571, and all other Bishops of the same Province, gave especially in charge to all preachers, to *chiefly take heed, that they teach nothing in their preaching, which they would have the people religiously to observe and believe, but that which is agreeable to the doctrine of the old Testament and the new, and that which the Catholick Fathers and ancient Bishops have gathered out of that doctrine.* So that

*The book of
Canons of the
same Synod
printed by
John Day
1571.*

nothing is farther off truth, then to say, such as reformed this Church made a New religion; they having retained onely that which is truly old and Catholick, as Articles of their faith.

30. Thus was Religion reformed, and thus by the Queen establisht in *England*, without either motion, or seeking any new way not practised by our Ancestors, but using the same courses had been formerly traced out unto them, for stopping profaneness and impiety, when ever they peeped in the Church. And certainly, to my understanding, there can be none that will with indifferency look upon those times, but he must (however he mislike the thing done) approve the manner of doing it. Yet the favorers of *Rome* ceased not to proclaim all had thus past to have been hereticall (without instancing any particular, as to say such a carriage was after the manner of Hereticks, ever condemned by the Catholick Church, and by orthodox writers in former times, or such a Tenet in your confession was held heresy from this place of Scripture anciently, by such holy Fathers met in generall Councell) and to raise stirs and commotions in the Commonwealth, ^f to excommunicate the Queen as *flagitiorum serva*, free her subjects of their allegiance, to give out we had ^a a *Parliament-religion. Parliament-Gospel, Parliament-Faith*, and this before ever the 39 Articles, one main pillar of the *English* reformation, were confirmed by Parliament.

^f Bulla Pii
5^{ti} March
28. 1569.
^a Harding his
consultation of
the Apol.
pars 6.

31. Upon the whole, it is so absolutely false that the Church of *England* made a departure from the Church, which is the ground and pillar of truth, as I am perswaded it is impossible to prove she did make the separation from the *Roman* it self; but that having declared in a lawfull Synod certain opinions, held by some in her communion, to be no articles of faith, and according to the precedent of former times, and the power God and nature had placed in her self, redressed particular abuses crept into,

into her, the Pope and his adherents, without ever examining what was the right of the Kingdom in such like cases, that had from all antiquity done the same, would needs interpret this a departing from the Church; because he resolved to maintain as articles of faith; & thrust on others as such, some ambiguous disputable questions the *English* did not think fit to admit into that number. To make a departure from Christs Church is certainly a very hainous offence, she never commanding ought but what is conformable to his will, nor requiring her children to believe any thing as matter of faith, but what is immediately contained in the word of God, or by evident consequence drawn from it: and as she excludes no Christians from being her children, who by their own demerits deserve not to be out of the divine favour; so in opposing those who endeavour to procure some reners to be admitted for hers; which cannot be deduced from that ground, we do not depart from her, but gain say humane errors, and conceits, which they would infer to be her commands who acknowledges them not. But as *St. Augustine* in a dispute with a Donatist, *utrum schismatici nos simus an vos, non ego; nec tu, sed Christus interrogetur; ut judicet Ecclesiam suam*: so may I, whether we are the schismaticks or the Church of *Rome*, *Christ* himself be the ludge. But whether divided from the other, being matter of fact, let the histories of former times, the extraordinary proceedings of the See of *Rome* of late against the Queen and this Commonwealth be compared, and I am confident the judgment may be referred to any indifferent person (though of that belief) who made the separation, and whether this Kingdom on so high provocations, did any thing would not have been parallell'd by former times, had they met with the like attempts. Neither can the Crown in this reformation be any way said to have enterprised on the papall primacy.

* Bellarm. de
justif. lib. 3.
cap. 8. § pri-
ma ratio. &
ibid. lib. 1. cap.
10. § prima
ratio.

u Contra liti-
ras Iuliani
lib. 2. cap. 8 §
10m. 7.

to the same
as the
as the
as the

which (for ought I know) it might have acknowledged so far as is exprest or deduced from holy Scripture, or laid down in the ancient sacred Councells, or the constant writings of the orthodox primitive Fathers, and yet done what it did;) but to have exercised that authority alwayes resided in it, for conserving the people under it in unity and peace, without being destroyed by the Canons and constitutions of others; not suffering a forraign power ruine them to whom it owed protection. In which it did not trench upon the rights of any, but conserved its own; imitating therein the Imperiall edicts of severall Princes, and of those were in possession of this very diadem, conformable to their Coronation oath.

a Fortresse of
faith, at the
end of Bedas
Hist. fol. 47. b.

33. And from hence may be answered that which Rome brings as her Achilles, touching the succession and visibility of the Protestants Church and doctrine in all ages since Christ: for if theirs have been, it is impossible to say the others have not; the former adding onely more articles for a Christian to believe, which the latter will not embrace as needfull: so that if theirs (as they so much glory) have had the continuance from the Apostles, these needs must, which onely denies some part of that they hold. *a* Protestants (says Stapleton) have many things lesse then Papiſts, they have taken away many things which Papiſts had, they have added nothing. And here to my understanding the Romanists require of us what lies on their part to prove; for we denying in the succession of Bishops from Cranmer, Wareham, even to Augustine, and so of the Britons, ever any one to have held the points we differ in to have been points of faith, in that degree of necessity they are now required, and for proof cite not onely the Apostles, Nicen, Athanasian Creeds, but even that of Peckham, which we find so to differ from the late one set out by Pins⁴^{us}, as we cannot but say it is unjust in them, to presse us to a profession in religion farther

farther than our ancestors were; they were not only affirming all those holy Bishops preceding, but only believed them as these now do, but did require them of others with the like necessity they now are, ought certainly to prove what they thus boldly affirm, which what they have done, truly for my part I shall think fit to yield; but till they do it, let them cease from proclaiming us hereticks, who hold no other then the ancient faith at first deliver'd unto us.

But this as a point rather dogmaticall for Divines, then historicall, the subject I undertook, I shall not here farther wade into.

F I N I S.

		more than	read	almost
9. 1. lin. 7.	10	Christian		Christians
5	15	generale		generale
7	18	they adressed		they did adressed
9	1	know		knew
Cap. 1. 7.		Precentor		precentor
47	1	prius de fidelitate &		prius Romano Pontifici de fidelitate &
52	4	find at all		find it at all
67	10	suffer for		suffer death for
79	13	Episcopus & clerus		Episcopi & clerus
81. in margin ad lit. f.		Cap. 13.		cap. 3.
143	1	whetbe		whither
151	3	Gloffe		Gloffe
157	4	Albigenses		Albigensis
	31	qui el		que il.
	39	Affent, de lour.		aufertatur comma
171	2	of Pope		of the Pope

